

ESTTA Tracking number: **ESTTA724763**Filing date: **02/03/2016**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217273
Party	Plaintiff Monster Energy Company
Correspondence Address	DIANE M REED KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET, 14TH FLOOR IRVINE, CA 92614 UNITED STATES efiling@knobbe.com, francie.leonguerrero@knobbe.com
Submission	Motion for Summary Judgment
Filer's Name	Jason A. Champion
Filer's e-mail	efiling@knobbe.com, francie.leonguerrero@knobbe.com, doreen.buluran@knobbe.com
Signature	/Jason A. Champion/
Date	02/03/2016
Attachments	<p>2016-02-03 JVC DECLARATION ISO OPPOSER'S MOTION FOR SUMMARY JUDGMENT-HANBEV.2514M.pdf(100131 bytes)</p> <p>JVC MSJ Exhibit 01 - Reg No. 2903214.pdf(590782 bytes)</p> <p>JVC MSJ Exhibit 02 - Reg No. 3434821.pdf(599772 bytes)</p> <p>JVC MSJ Exhibit 03 - Reg No. 3434822.pdf(2303830 bytes)</p> <p>JVC MSJ Exhibit 04 - Reg No. 3134841.pdf(595493 bytes)</p> <p>JVC MSJ Exhibit 05 - Applicant's Third Supp Resp to ROGs [REDACTED].pdf(767746 bytes)</p> <p>JVC MSJ Exhibit 06 - Applicant's Resp to RFAs.pdf(800552 bytes)</p> <p>JVC MSJ Exhibit 07 - FILED UNDER SEAL.pdf(6394 bytes)</p> <p>JVC MSJ Exhibit 08 - MEC00062377 Three Notch'd Facebook photos.pdf(3366064 bytes)</p> <p>JVC MSJ Exhibit 09 - MEC00060173 - Trinkin.pdf(1089317 bytes)</p> <p>JVC MSJ Exhibit 10 - MEC00060283 - Three Notch'd Instagram_Part 1 of 2.pdf(2485993 bytes)</p> <p>JVC MSJ Exhibit 10 - MEC00060283 - Three Notch'd Instagram_Part 2 of 2.pdf(3474778 bytes)</p> <p>JVC MSJ Exhibit 11 - MEC00060295 - Three Notch'd Twitter_Part 1 of 2.pdf(5261921 bytes)</p> <p>JVC MSJ Exhibit 11 - MEC00060295 - Three Notch'd Twitter_Part 2 of 2.pdf(4518785 bytes)</p> <p>JVC MSJ Exhibit 12 - MEC00062635 - Three Notch'd website.pdf(1966856 bytes)</p> <p>JVC MSJ Exhibit 13 - FILED UNDER SEAL.pdf(6395 bytes)</p> <p>JVC MSJ Exhibit 14 - FILED UNDER SEAL.pdf(6426 bytes)</p> <p>JVC MSJ Exhibit 15 - FILED UNDER SEAL.pdf(6410 bytes)</p> <p>JVC MSJ Exhibit 16 - MEC00062425 - Beer Run.pdf(1381745 bytes)</p> <p>JVC MSJ Exhibit 17 - FILED UNDER SEAL.pdf(6378 bytes)</p> <p>JVC MSJ Exhibit 18 - MEC00060650, MEC00060654 - BevMo.pdf(1530236 bytes)</p> <p>JVC MSJ Exhibit 19 - MEC00060575 - Weinhard's Reg No. 2280777.pdf(2536350 bytes)</p> <p>JVC MSJ Exhibit 20 - MEC00062560 - The Party Starts Here Reg No. 4577168.pdf(1118822 bytes)</p> <p>JVC MSJ Exhibit 21 - MEC00062555 - Wildfin Reg No. 4522471.pdf(1100304 bytes)</p>

	JVC MSJ Exhibit 22 - MEC00062449 - Abita Brewing Reg No. 2178241.pdf(1020472 bytes) JVC MSJ Exhibit 23 - MEC00062575 - Appalachian Brewing Reg No. 4888490.pdf(1110096 bytes) JVC MSJ Exhibit 24 - Serial No. 86131120.pdf(553233 bytes) JVC MSJ Exhibit 25 - MEC00061649-651 - Beer Advocate.pdf(1995645 bytes) JVC MSJ Exhibit 26 - FILED UNDER SEAL.pdf(6408 bytes)
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MONSTER ENERGY COMPANY,

Opposer,

v.

THREE NOTCH'D BREWING COMPANY, LLC,

Applicant.

)
) Opposition No.: 91217273
)


)
) Serial No.: 85/920112
)


)
) 
) Mark: _____
)


DECLARATION OF JASON A. CHAMPION IN SUPPORT OF OPPOSER'S
MOTION FOR SUMMARY JUDGMENT


I, Jason A. Champion, declare as follows:

1. I am an attorney licensed to practice in the State of California. I am a partner with the law firm of Knobbe, Martens, Olson & Bear LLP, counsel for Opposer, Monster Energy Company ("Opposer") in the above-identified Opposition proceeding. I have personal knowledge of the facts set forth below. If called upon and sworn as a witness, I could and would competently testify as set forth below.

2. True and correct copies of the Registration Certificate for Opposer's U.S. Trademark Registration No. 2,903,214 for the  Mark and printouts from the United States Patent and Trademark Office's ("PTO") TSDR, TESS, and Assignment databases showing the specifics of this trademark registration are attached hereto as Exhibit 1.

3. True and correct copies of the Registration Certificate for Opposer's U.S. Trademark Registration No. 3,434,821 for the  Mark and printouts from the PTO's TSDR, TESS, and Assignment databases showing the specifics of this trademark registration are attached hereto as Exhibit 2.

4. True and correct copies of the Registration Certificate for Opposer's U.S. Trademark Registration No. 3,434,822 for the  Mark and printouts from the PTO's TSDR, TESS, and Assignment databases showing the specifics of this trademark registration are attached hereto as Exhibit 3.

5. True and correct copies of the Registration Certificate for Opposer's U.S. Trademark Registration No. 3,134,841 for the  Mark and printouts from the PTO's TSDR, TESS, and Assignment databases showing the specifics of this trademark registration are attached hereto as Exhibit 4.

6. Attached hereto as Exhibit 5 is a true and correct copy of Applicant's Third Supplemental Objections and Responses to Opposer's First Set of Interrogatories Nos. 1-29.

7. Attached hereto as Exhibit 6 is a true and correct copy of Applicant's Objections and Responses to Opposer's First Set of Requests for Admission Nos. 1-51.

8. Attached hereto as Exhibit 7 is a true and correct copy of a print out from Applicant's website at <http://threenotchdbrewing.com/beer-finder/>, which was produced by Applicant with production numbers TNB_000050-60 and identified in Applicant's Objections and Responses to Interrogatory No. 14 as referring to the stores, restaurants, and bars where Applicant's Goods have been sold.

9. Attached hereto as Exhibit 8 is a true and correct copy of a print out from Applicant's Facebook page at https://www.facebook.com/ThreeNotchdBeer/photos_stream?ref=page_internal showing some of Applicant's Facebook posts, printed on January 20, 2016 and bearing production numbers MEC00062377-396.

10. Attached hereto as Exhibit 9 is a true and correct copy of a print out from trinkin.com at <https://trinkin.com/places/188/pic> showing flags bearing Applicant's Mark, printed on May 26, 2015 and bearing production number MEC00060173.

11. Attached hereto as Exhibit 10 are true and correct copies of print outs from Applicant's Instagram page at <http://instagram.com/threenotchdbrewing/>, showing some of Applicant's Instagram posts, printed on May 26, 2015 and January 20, 2016 bearing production numbers MEC00060283-294 and MEC00062397-424.

12. Attached hereto as Exhibit 11 is a true and correct copy of a print out from Applicant's Twitter page at <http://instagram.com/threenotchdbrewing/>, showing Applicant's profile picture, printed on May 26, 2015 bearing production number MEC00060295.

13. Attached hereto as Exhibit 12 is a true and correct copy of a print out from Applicant's website at <http://threenotchdbrewing.com>, printed on January 22, 2016 and bearing production number MEC00062635.

14. Attached hereto as Exhibit 13 is a true and correct copy of the packaging of Applicant's goods produced by Applicant and bearing production number TNB_0000026.

15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the deposition transcript of Applicant's President Scott Roth taken in this proceeding on December 3, 2015.

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the deposition transcript of Applicant's CEO George Kastendike taken in this proceeding on December 2, 2015.

17. Attached hereto as Exhibit 16 is a true and correct copy of a printout from Beer Run's website at <http://beerrun.com/three-notchd-brewing-can-release/> showing the price of Applicant's beer listed as \$10 for a 6 pack or \$1.66 per can, printed on January 20, 2016 and bearing production number MEC00062425.

18. Attached hereto as Exhibit 17 is a true and correct copy of an email chain produced by third party Okay Yellow with production number OY_000046.

19. Attached hereto as Exhibit 18 are true and correct copies of printouts from BevMo's website at <http://www.bevmo.com/Beer> and http://www.bevmo.com/Shop/ProductList.aspx/SodaShop/More/_/N-16Z1z12ewiZ1z12ewk?DNID=SodaShop showing product listings for alcoholic beverages and non-alcoholic beverages, printed on May 26, 2015 and bearing production numbers MEC00060650-51 and MEC00060654-55.

20. Attached hereto as Exhibit 19 are true and correct copies of the Registration Certificate for Stroh Brewery Company's U.S. Trademark Registration No. 2,280,777 for HENRY WEINHARD'S mark in connection with "Beer and soft drinks" and printouts from the PTO's TSDR, TESS and Assignment database showing specifics of this trademark registration and bearing production numbers MEC00060575-585.


21. Attached hereto as Exhibit 20 are true and correct copies of the Registration Certificate for Blue Matrix Lab's U.S. Trademark Registration No. 4,577,168 for THE PARTY STARTS HERE mark in connection with "Beers; Energy drinks; Non-alcoholic drinks, namely,

energy shots” and printouts from the PTO’s TSDR, TESS and Assignment database showing specifics of this trademark registration and bearing production numbers MEC00062560-66.

22. Attached hereto as Exhibit 21 are true and correct copies of the Registration Certificate for Wildfin Northwest LLC’s Trademark Registration No. 4,522,471 for the WILDFIN mark in connection with “beer; ale; soda pops; soft drinks, namely, soda; non-alcoholic beverages, namely, carbonated beverages” and printouts from the PTO’s TSDR, TESS and Assignment databases showing the specifics of the trademark registration and bearing production numbers MEC00062555-59.

23. Attached hereto as Exhibit 22 are true and correct copies of the Registration Certificate for Abita Brewing Company, Inc.’s Trademark Registration No. 2,178,241 for the ABITA mark in connection with “beer, ale, lager, malt liquor, carbonated soft drinks” and printouts from the PTO’s TSDR, TESS and Assignment databases showing the specifics of the trademark registration and bearing production numbers MEC00062449-52.

24. Attached hereto as Exhibit 23 are true and correct copies of the Registration Certificate for Appalachian Brewing Co. Inc.’s Trademark Registration No. 4,888,490 for the APPALACHIAN BREWING CO. mark in connection with “beer; soft drinks, namely, sodas” and printouts from the PTO’s TSDR, TESS and Assignment databases showing the specifics of the trademark registration and bearing production numbers MEC00062575-79.

25. Attached hereto as Exhibit 24 is a true and correct copy of the specifics of MEC’s U.S. Trademark Application Serial No. 86/131,120 for the  mark in connection with “Restaurant services; bar services” in International Class 43, obtained from the PTO’s TESS database.

26. Attached hereto as Exhibit 25 is a print out from the Beer Advocate website at <http://www.beeradocate.com/community/threads/red-bull-files-trademark-complaint-against-old-ox-brewery.256733/> printed on July 16, 2015 and bearing production numbers MEC00061649-51.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the deposition transcript of Paul Dierkes from Okay Yellow Design Lab taken in this proceeding on December 4, 2015.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 3, 2016

By: /Jason A. Champion/
Jason A. Champion

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **DECLARATION OF JASON A. CHAMPION IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT** has been served on Robert C. Van Arnam by mailing said copy on February 3, 2016 via First Class Mail, postage prepaid to:

Robert C. Van Arnam
WILLIAMS MULLEN
301 Fayetteville Street, Suite 1700
Raleigh, NC 27601
rvanarnam@williamsmullen.com
tbergert@williamsmullen.com
mhayes@williamsmullen.com

Signature: 

Name: Doreen P. Buluran

Date: February 3, 2016

22504402/dpb/011916

TTAB Opposition No. 91217273

Monster Energy Company v. Three Notch'd Brewing Company, LLC

EXHIBIT 1

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,903,214

United States Patent and Trademark Office

Registered Nov. 16, 2004

Corrected

OG Date Dec. 18, 2007

TRADEMARK
PRINCIPAL REGISTER



HANSEN BEVERAGE COMPANY (DELA-
WARE CORPORATION)
550 MONICA CIRCLE
SUITE 201
CORONA, CA 92880

FOR: DRINKS, NAMELY, CARBO-
NATED SOFT DRINKS, CARBONATED
DRINKS ENHANCED WITH VITAMINS,
MINERALS, NUTRIENTS, AMINO ACIDS
AND/OR HERBS, CARBONATED AND
NON-CARBONATED ENERGY OR


SPORTS DRINKS, FRUIT JUICE DRINKS
HAVING A JUICE CONTENT OF 50% OR
LESS BY VOLUME THAT ARE SHELF
STABLE, AND WATER;*BUT EXCLUD-
ING PERISHABLE BEVERAGE PRO-
DUCTS THAT CONTAIN FRUIT JUICE
OR SOY, WHETHER SUCH PRODUCTS
ARE PASTEURIZED OR NOT.*, IN
CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-27-2002; IN COMMERCE
4-18-2002.

SER. NO. 78-246,564, FILED 5-7-2003.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Dec. 18, 2007.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

**United States Patent and Trademark Office**
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Word Mark M

Goods and Services IC 032. US 045 046 048. G & S: Drinks, namely, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated and non-carbonated energy or sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and water;]*but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not.*. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78246564

Filing Date May 7, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition August 24, 2004

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2903214

Registration Date November 16, 2004

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880



(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Diane M. Reed
Description of Mark Color is not claimed as a feature of the mark.
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20131223.
Renewal 1ST RENEWAL 20131223
Live/Dead Indicator LIVE

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1**Serial # :** [78246564](#)**Filing Dt:** 05/07/2003**Reg # :** [2903214](#)**Reg. Dt:** 11/16/2004**Registrant:** Hansen Beverage Company**Mark:** M**Assignment: 1****Reel/ Frame:** [4699/0063](#)**Recorded:** 01/13/2012**Pages:** 10**Conveyance:** CHANGE OF NAME**Assignor:** [HANSEN BEVERAGE COMPANY](#)**Exec Dt:** 01/05/2012**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Entity Type: CORPORATION**Citizenship:** DELAWARE**Correspondent:** DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

IRVINE, CA 92614

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Web interface last modified: July 25, 2014 v2.5

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EXHIBIT 2

Int. Cl.: 5

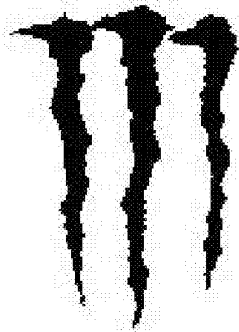
Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,434,821

United States Patent and Trademark Office

Registered May 27, 2008

**TRADEMARK
PRINCIPAL REGISTER**



HANSEN BEVERAGE COMPANY (DELAWARE
CORPORATION)
550 MONICA CIRCLE
SUITE 201
CORONA, CA 92880

OWNER OF U.S. REG. NOS. 2,903,214 AND
3,134,841.


THE MARK CONSISTS OF THE LETTER "M" IN
THE FORM OF A CLAW.

FOR: NUTRITIONAL SUPPLEMENTS, IN CLASS
5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

SER. NO. 77-274,643, FILED 9-7-2007.

FIRST USE 3-27-2002; IN COMMERCE 4-18-2002.

MICHAEL WIENER, EXAMINING ATTORNEY

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Word Mark	M
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Nutritional supplements. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.17.03 - Claws; Feet, bird; Parts of birds: claws, talons, feet, foot tracks; Talons; Tracks, bird
Trademark Search Facility Classification Code	LETS-1 M A single letter, multiples of a single letter or in combination with a design SHAPES-MISC Miscellaneous shaped designs
Serial Number	77274643
Filing Date	September 7, 2007
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	March 11, 2008
Registration Number	3434821
Registration Date	May 27, 2008
Owner	(REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880 (LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Diane M. Reed
Prior Registrations	2903214;3134841
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the letter "m" in the form of a claw.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial # : [77274643](#)

Filing Dt: 09/07/2007

Reg # : [3434821](#)

Reg. Dt: 05/27/2008

Registrant: Hansen Beverage Company

Mark: M

Assignment: 1

Reel/ Frame: [4699/0063](#)

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: [HANSEN BEVERAGE COMPANY](#)

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

IRVINE, CA 92614

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EXHIBIT 3

United States of America

United States Patent and Trademark Office



Reg. No. 3,434,822

Registered May 27, 2008

Amended Sep. 18, 2012

Int. Cl.: 32

TRADEMARK

PRINCIPAL REGISTER

MONSTER ENERGY COMPANY (DELAWARE CORPORATION)
550 MONICA CIRCLE
STE. 201
CORONA, CA 92880

FOR: NON-ALCOHOLIC BEVERAGES, NAMELY, ENERGY DRINKS, EXCLUDING PERISHABLE BEVERAGE PRODUCTS THAT CONTAIN FRUIT JUICE OR SOY, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-27-2002; IN COMMERCE 4-18-2002.

OWNER OF U.S. REG. NOS. 2,903,214 AND 3,134,841.

THE MARK CONSISTS OF THE LETTER "M" IN THE FORM OF A CLAW.

SER. NO. 77-274,662, FILED 9-7-2007.



David J. Kybas

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*


Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.


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Word Mark	M
Goods and Services	IC 032. US 045 046 048. G & S: Non-alcoholic beverages, namely, energy drinks, excluding perishable beverage products that contain fruit juice or soy. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.17.03 - Claws; Feet, bird; Parts of birds: claws, talons, feet, foot tracks; Talons; Tracks, bird
Trademark Search Facility Classification Code	ANI-MISC Part of the animals including animal bones,horns,claws,shells,eyes,coral,paws,eggs,feathers,hides or skins
Serial Number	77274662
Filing Date	September 7, 2007
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	March 11, 2008
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	3434822
Registration Date	May 27, 2008

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201
Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way
Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Diane M. Reed

Prior Registrations 2903214;3134841

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the letter "m" in the form of a claw.

Type of Mark TRADEMARK



Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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Assignments on the Web > **Trademark Query**

Trademark Assignment Abstract of Title

Total Assignments: 1Serial # : [77274662](#)

Filing Dt: 09/07/2007

Reg # : [3434822](#)

Reg. Dt: 05/27/2008

Registrant: Hansen Beverage Company

Mark: M

Assignment: 1Reel/ Frame: [4699/0063](#)

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: [HANSEN BEVERAGE COMPANY](#)

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

IRVINE, CA 92614

Search Results as of: 01/27/2016 08:36 PM
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Web interface last modified: July 25, 2014 v2.5

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EXHIBIT 4

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 3,134,841

United States Patent and Trademark Office

Registered Aug. 29, 2006

**TRADEMARK
PRINCIPAL REGISTER**



HANSEN BEVERAGE COMPANY (DELAWARE CORPORATION)
1010 RAILROAD STREET
CORONA, CA 92882

PRODUCTS THAT CONTAIN FRUIT JUICE OR SOY, WHETHER SUCH PRODUCTS ARE PASTEURIZED OR NOT, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).


FOR: BEVERAGES, NAMELY, CARBONATED SOFT DRINKS, CARBONATED SOFT DRINKS ENHANCED WITH VITAMINS, MINERALS, NUTRIENTS, AMINO ACIDS AND/OR HERBS, CARBONATED AND NON-CARBONATED ENERGY AND SPORTS DRINKS, FRUIT JUICE DRINKS HAVING A JUICE CONTENT OF 50% OR LESS BY VOLUME THAT ARE SHELF STABLE, AND AERATED WATER, SODA WATER AND SELTZER WATER, BUT EXCLUDING PERISHABLE BEVERAGE

FIRST USE 3-27-2002; IN COMMERCE 4-18-2002.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY", APART FROM THE MARK AS SHOWN.

SER. NO. 78-246,567, FILED 5-7-2003.

AMY HELLA, EXAMINING ATTORNEY

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Trademarks > Trademark Electronic Search System (TESS)

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Record 1 out of 1

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Word Mark M MONSTER ENERGY

Goods and Services IC 032. US 045 046 048. G & S: Beverages, namely, carbonated soft drinks, carbonated soft drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy and sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78246567

Filing Date May 7, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition June 6, 2006

Registration Number 3134841

Registration Date August 29, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Diane M. Reed

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK



Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial # : [78246567](#)

Filing Dt: 05/07/2003

Reg # : [3134841](#)

Reg. Dt: 08/29/2006

Registrant: Hansen Beverage Company

Mark: M MONSTER ENERGY

Assignment: 1

Reel/ Frame: [4699/0063](#)

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

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Exec Dt: 01/05/2012

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Citizenship: DELAWARE

Assignee: [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201
CORONA, CALIFORNIA 92880

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: DIANE M. REED
2040 MAIN STREET, 14TH FLOOR
IRVINE, CA 92614

Search Results as of: 01/27/2016 08:37 PM

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EXHIBIT 5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONSTER ENERGY COMPANY,)	
)	
Opposer,)	
)	Opposition No. 91217273
v.)	
)	Serial No. 85/920,112
THREE NOTCH'D BREWING COMPANY, LLC,)	
)	
Applicant.)	

**APPLICANT'S THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES
TO OPPOSER'S FIRST SET OF INTERROGATORIES (NOS. 1-29)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure Applicant Three Notch'd Brewing Company, LLC ("Applicant") hereby supplements its objections and responses to Opposer Monster Energy Company's ("Opposer") First Set of Interrogatories (Nos. 1-29) ("Interrogatories") as follows:

OBJECTIONS TO DEFINITIONS

1. Applicant objects to the definition of "Applicant" as overly broad and as seeking information not in the possession, custody, or control of Applicant with respect to "any . . . former owner, officer, director, employee, servant, agent, attorney or other representative acting on behalf of it . . ." and "any related entity . . . or affiliate."

2. Applicant objects to the definition of "person" as overly broad with respect to "and the acts and knowledge of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys."

3. Applicant objects to the definition of "Applicant's Goods" as overly broad, not relevant to any claim, defense, or counterclaim raised in this proceeding, and not reasonably

taken its name from a distinctive marking of three notches burnt or axed into trees to blaze the trail. Applicant's Mark similarly features three notches and takes its name from that of the original trail, which runs less than a quarter mile from the location of Applicant's brewery.

INTERROGATORY NO. 4:

Describe in detail all goods ever offered for sale or sold by Applicant in connection with Applicant's Mark in the U.S.

RESPONSE TO INTERROGATORY NO. 4:

Applicant objects to this Interrogatory as overly broad with respect to "all goods ever," insofar as it is not limited to the goods recited in U.S. Trademark Application Serial No. 85/920,112.

Subject to and without waiving the foregoing objections, Applicant responds as follows:
beer; apparel; glasses; growlers.

INTERROGATORY NO. 5:

For each of Applicant's Goods, identify the date the good was first offered for sale or sold in connection with Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 5:

Applicant objects to this Interrogatory as overly broad with respect to "each of Applicant's Goods," to the extent it purports to seek information regarding goods not recited in U.S. Trademark Application Serial No. 85/920,112.

Subject to and without waiving the foregoing objections, Applicant responds and states that it has used Applicant's Mark in connection with the sale of beer since at least as early as August 29, 2013.

INTERROGATORY NO. 6:

Identify each state where Applicant's Goods have been or are currently sold in connection with Applicant's Mark and state the date on which sales began in each state.

RESPONSE TO INTERROGATORY NO. 6:

Applicant objects to this Interrogatory as consisting of multiple discrete sub-parts. Applicant further objects to this Interrogatory as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Applicant responds and states that it has used Applicant's Mark in connection with the sale of beer in the Commonwealth of Virginia since at least as early as August 29, 2013.

INTERROGATORY NO. 7:

Describe in detail the circumstances surrounding when Applicant ceased using Applicant's Mark in connection with any of Applicant's Goods for any period of time.

RESPONSE TO INTERROGATORY NO. 7:

Applicant objects to this Interrogatory as vague and ambiguous with respect to "circumstances surrounding." Applicant further objects to this Interrogatory insofar as it contains subjective allegations and/or factual assumptions with respect to "when Applicant ceased using Applicant's Mark." By responding to this Interrogatory, Applicant does not admit or accede to any such allegations or assumptions.

Subject to and without waiving the foregoing objections, Applicant responds and states that it has used Applicant's Mark continuously in connection with the sale of beer since at least as early as August 29, 2013.

INTERROGATORY NO. 8:

Describe in detail Applicant's plans to expand the products or services under which Applicant's Mark will be used.

RESPONSE TO INTERROGATORY NO. 8:

Applicant objects to this as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Applicant responds and states that it does not know its “plans to expand” with respect to Applicant’s Mark.

INTERROGATORY NO. 9:

For each product offered in connection with Applicant’s Mark, state the average wholesale and retail price of each product.

RESPONSE TO INTERROGATORY NO. 9:

Applicant objects to this Interrogatory as vague and ambiguous with respect to “average wholesale and retail price of each product.” It is unclear, for instance, whether the Interrogatory seeks information regarding the “average wholesale and retail price” of all beer sold under Applicant’s Mark, or the “average wholesale and retail price” of each variety of beer sold under Applicant’s Mark. Applicant further objects to this Interrogatory as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this Interrogatory as overly broad with respect to “each product,” to the extent it purports to seek information regarding goods not recited in U.S. Trademark Application Serial No. 85/920,112.

Subject to and without waiving the foregoing objections, Applicant responds and states that Applicant generally fills a growler of beer for between ten and fifteen dollars.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 9:

Subject to and without waiving the foregoing objections, Applicant further responds and states that Applicant’s average wholesale and retail price of beer is as follows:

Distributor pricing:

1/2 Keg Wholesale	1/4 Keg Wholesale	1/2 Keg Retail	1/4 Keg Retail	Case Wholesale	Case Retail
\$105-175	\$58-118	\$143-209	\$75-150	\$21-84	\$30-108

Tap room pricing:

1/2 Keg	1/4 Keg	Draft Price	6-Pack Price
\$150-190	\$80-110	\$5-6	\$10

INTERROGATORY NO. 10:

State your net and gross sales (in units and dollars) and net and gross profits, on a monthly basis, for each of Applicant's Goods since the date of first sale of each product.

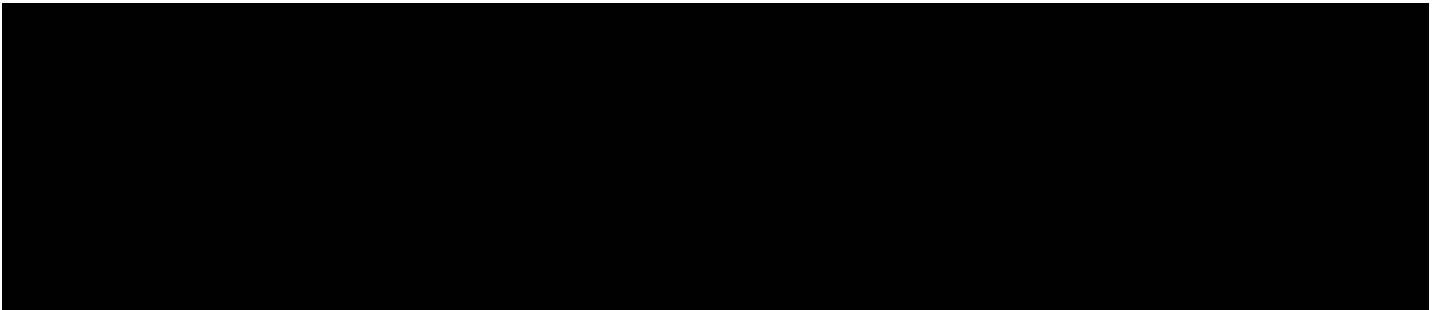
RESPONSE TO INTERROGATORY NO. 10:

Applicant objects to this Interrogatory as vague and ambiguous with respect to “net and gross profits . . . for each of Applicant's Goods since the date of first sale of each product.” It is unclear, for instance, whether the Interrogatory seeks information regarding the “net and gross profits” for all beer sold under Applicant's Mark, or the “net and gross profits” for each variety of beer sold under Applicant's Mark. Applicant further objects to this Interrogatory as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this Interrogatory as overly broad with respect to “each of Applicant's Goods,” to the extent it purports to seek information regarding goods not recited in U.S. Trademark Application Serial No. 85/920,112. Applicant further objects to this Interrogatory as overly broad with respect to “on a monthly basis.”

insofar as it requests the “amount . . . spent on advertising Applicant’s Mark” as opposed to the beer sold in connection with Applicant’s Mark.

**NOTE: THE FOLLOWING RESPONSE IS DESIGNATED TRADE SECRET /
COMMERCIALY SENSITIVE**

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:



INTERROGATORY NO. 14:

Describe the trade channels, such as retail stores and other outlets, through which Applicant’s Goods have been sold, are currently being sold, or will be sold.

RESPONSE TO INTERROGATORY NO. 14:

Applicant objects to this Interrogatory as vague, ambiguous, and calling for a legal conclusion with respect to “trade channels.” Applicant further objects to this Interrogatory as overly broad, not relevant to any claim, defense, or counterclaim raised in this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence, with respect to “will be sold.”

Subject to and without waiving the foregoing objections, Applicant responds and states that its beer has been sold in stores, restaurants, and bars. Responding further, Applicant refers to the following page on its website: <http://threenotchdbrewing.com/beer-finder/>.

Discovery is not complete and Applicant’s investigation is continuing. Pursuant to Fed. R. Civ. P. 26(e), Applicant expressly reserves the right to supplement, amend, and/or modify its response.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:

Subject to and without waiving the foregoing objections, Applicant further responds and refers Opposer to Applicant's Exhibit 47 produced in this proceeding.

INTERROGATORY NO. 15:

Describe in detail the level of sophistication/degree of care of the average consumer of Applicant's Goods.

RESPONSE TO INTERROGATORY NO. 15:

Applicant objects to this Interrogatory as vague, ambiguous, and calling for a legal conclusion with respect to "level of sophistication/degree of care of the average consumer."

Subject to and without waiving the foregoing objections, Applicant responds and states that Applicant's Goods are sold to consumers of craft beer.

Discovery is not complete and Applicant's investigation is continuing. Pursuant to Fed. R. Civ. P. 26(e), Applicant expressly reserves the right to supplement, amend, and/or modify its response.

INTERROGATORY NO. 16:

Identify the customer base for Applicant's Goods, including identifying and describing the type of individual and demographic to which you market or aim to market the products.

RESPONSE TO INTERROGATORY NO. 16:

Applicant objects to this Interrogatory as vague and ambiguous with respect to "customer base" and "type of individual and demographic."

Subject to and without waiving the foregoing objections, Applicant responds and states that Applicant's Goods are sold to consumers of craft beer in the Commonwealth of Virginia.

Interrogatory as not relevant to any claim, defense, or counterclaim raised in this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this Interrogatory as vague and ambiguous insofar as it does not specify a relevant timeframe.

Subject to and without waiving the foregoing objections, Applicant responds as follows:

None.

INTERROGATORY NO. 21:

Describe all third-party uses of Opposer's Marks or marks that you contend are similar to Opposer's Marks, including identifying the third-party and describing the goods or services in connection with which the design was used by the third-party.

RESPONSE TO INTERROGATORY NO. 21:

Applicant objects to this Interrogatory as consisting of multiple discrete sub-parts. Applicant further objects to this Interrogatory as vague and ambiguous with respect to "marks that . . . are similar to Opposer's Marks . . ." Applicant further objects to this Interrogatory as unduly burdensome, not relevant to any claim, defense, or counterclaim raised in this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Applicant further objects to this Interrogatory as seeking a legal conclusion with respect to "third-party uses of Opposer's Marks or marks that . . . are similar to Opposer's Marks."

Subject to and without waiving the foregoing objections, Applicant responds and states that it does not have knowledge of specific "third-party uses of Opposer's Mark or marks that . . . are similar to Opposer's Mark."

Discovery is not complete and Applicant's investigation is continuing. Pursuant to Fed. R. Civ. P. 26(e), Applicant expressly reserves the right to supplement, amend, and/or modify its response.

to “complete factual and legal basis,” inasmuch as it purports to ask Applicant to marshal all evidence while discovery and investigation are ongoing.

Subject to and without waiving the foregoing objections, Applicant responds and refers to its responses to Opposer’s First Set of Requests for Admission.

Discovery is not complete and Applicant’s investigation is continuing. Pursuant to Fed. R. Civ. P. 26(e), Applicant expressly reserves the right to supplement, amend, and/or modify its response.

THREE NOTCH'D BREWING COMPANY, LLC,
Applicant

Date: October 22, 2015

By: / Neil C. Magnuson /
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Neil C. Magnuson, Esquire
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Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of October, 2015, the foregoing APPLICANT'S THIRD SUPPLEMENTAL OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES has been served on Opposer, Monster Energy Company, by electronic mail, with copy of the same to follow by first class mail, postage prepaid, to:

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Diane M. Reed
Jonathan A. Menkes
Jason Champion
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Irvine, CA 92614
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/ Neil C. Magnuson /
Robert C. Van Arnam, Esquire
Neil C. Magnuson, Esquire
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Counsel for Applicant

EXHIBIT 6

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONSTER ENERGY COMPANY,)	
)	
Opposer,)	
)	Opposition No. 91217273
v.)	
)	Serial No. 85/920,112
THREE NOTCH'D BREWING COMPANY, LLC,)	
)	
Applicant.)	

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST
SET OF REQUESTS FOR ADMISSION (REQUEST NOS. 1-51)**

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure, Applicant Three Notch'd Brewing Company, LLC ("Applicant") hereby responds to Opposer Monster Energy Company's ("Opposer") First Set of Requests for Admission (Request Nos. 1-51) ("Requests") as follows.

OBJECTIONS TO DEFINITIONS

1. Applicant objects to the definition of "Applicant" as overly broad and as seeking information not in the possession, custody, or control of Applicant with respect to "any . . . former owner, officer, director, employee, servant, agent, attorney or other representative acting on behalf of it . . ." and "any related entity . . . or affiliate."

2. Applicant objects to the definition of "person" as overly broad with respect to "and the acts and knowledge of a person are defined to include the acts and knowledge of that person's directors, officers, members, employees, representatives, agents and attorneys."

3. Applicant objects to the definition of "Applicant's Goods" as overly broad, not relevant to any claim, defense, or counterclaim raised in this proceeding, and not reasonably

Marks . . . as against Applicant's use of Applicant's Mark," and on these bases denies the Request.

REQUEST NO. 2:

Admit that Opposer used in commerce, as defined by 15 U.S.C. § 1127, Opposer's Marks before Applicant used Applicant's Mark.

OBJECTIONS AND RESPONSE TO REQUEST NO. 2:

Applicant objects to this Request as calling for a legal conclusion with respect to "Opposer used in commerce . . . Opposer's Marks" and "Applicant's used Applicant's Mark." Applicant further objects to this Request as overly broad and as not relevant to any claim, defense, or counterclaim raised in this proceeding, inasmuch as it is not limited to use of the subject marks with particular goods or services, including the goods recited in U.S. Trademark Application Serial No. 85/920,112, and the goods referenced in Opposer's Notice of Opposition.

Subject to and without waiving the foregoing objections, Applicant responds and states that it lacks any knowledge of Opposer's actual date(s) of first use in commerce of Opposer's Marks, and on this basis denies the Request.

REQUEST NO. 3:

Admit that prior to selecting Applicant's Mark, Applicant was aware of Opposer.

OBJECTIONS AND RESPONSE TO REQUEST NO. 3:

Applicant objects to this Request and vague and ambiguous with respect to "aware." Applicant further objects to this Request as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Admitted.

REQUEST NO. 4:

Admit that prior to selecting Applicant's Mark, Applicant had seen at least one of Opposer's Monster Energy® drinks.

OBJECTIONS AND RESPONSE TO REQUEST NO. 4:

Applicant objects to this Request as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Admitted.

REQUEST NO. 5:

Admit that prior to selecting Applicant's Mark, Applicant had seen marketing for Opposer's Monster Energy® drinks.

OBJECTIONS AND RESPONSE TO REQUEST NO. 5:

Applicant objects to this Request as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Admitted.

REQUEST NO. 6:

Admit that prior to selecting Applicant's Mark, Applicant was aware of one or more of Opposer's Marks.

OBJECTIONS AND RESPONSE TO REQUEST NO. 6:

Applicant further objects to this Request and vague and ambiguous with respect to "aware." Applicant further objects to this Request as not relevant to any claim, defense, or

REQUEST NO. 9:

Admit that Applicant sells or plans to sell Applicant's Goods to retail stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 9:

Applicant objects to this Request as vague and ambiguous with respect to "retail stores."
Applicant further objects to this Request as overly broad and as not relevant to any claim, defense, or counterclaim raised in this proceeding, with respect to "plans to sell."

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not sell beer directly to retail stores.

REQUEST NO. 10:

Admit that Applicant has marketed Applicant's Goods to retail stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 10:

Applicant objects to this Request as vague and ambiguous with respect to "retail stores"
and "marketed . . . to . . ."

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not market beer directly to retail stores.

REQUEST NO. 11:

Admit that Applicant's Goods have been sold at retail stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 11:

Applicant objects to this Request as vague and ambiguous with respect to "retail stores."

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Admitted.

REQUEST NO. 12:

Admit that Applicant sells or plans to sell Applicant's Goods to drug stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 15:

Applicant objects to this Request as vague and ambiguous with respect to “convenience stores.” Applicant further objects to this Request as overly broad and as not relevant to any claim, defense, or counterclaim raised in this proceeding, with respect to “plans to sell.”

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not sell beer directly to convenience stores.

REQUEST NO. 16:

Admit that Applicant has marketed Applicant’s Goods to convenience stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 16:

Applicant objects to this Request as vague and ambiguous with respect to “convenience stores” and “marketed . . . to . . .”

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not market beer directly to convenience stores.

REQUEST NO. 17:

Admit that Applicant’s Goods have been sold at convenience stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 17:

Applicant objects to this Request as vague and ambiguous with respect to “convenience stores.”

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Admitted.

REQUEST NO. 18:

Admit that Applicant sells or plans to sell Applicant’s Goods to grocery stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 18:

Applicant objects to this Request as overly broad and as not relevant to any claim, defense, or counterclaim raised in this proceeding, with respect to “plans to sell.”

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not sell beer directly to grocery stores.

REQUEST NO. 19:

Admit that Applicant has marketed Applicant’s Goods to grocery stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 19:

Applicant objects to this Request as vague and ambiguous with respect to “marketed . . . to . . .”

Subject to and without waiving the foregoing objections, Applicant responds as follows:
Denied. Applicant does not market beer directly to grocery stores.

REQUEST NO. 20:

Admit that Applicant’s Goods have been sold at grocery stores.

OBJECTIONS AND RESPONSE TO REQUEST NO. 20:

Admitted.

REQUEST NO. 21:

Admit that Applicant’s Goods have been sold in retail stores that also sell Opposer’s Goods.

OBJECTIONS AND RESPONSE TO REQUEST NO. 21:

Applicant objects to this Request as vague and ambiguous with respect to “retail stores.”

Subject to and without waiving the foregoing objections, Applicant responds and states that it does not have specific knowledge as to which retail stores sell Opposer’s Goods, and on this basis denies the Request.

REQUEST NO. 51:

Admit that Applicant uses Applicant's Mark wherein the following portion of



Applicant's Mark is in the color red:

OBJECTIONS AND RESPONSE TO REQUEST NO. 51:

Applicant objects to this Request as vague and ambiguous with respect to "in the color red." Applicant further objects to this Request as not relevant to any claim, defense, or counterclaim raised in this proceeding, and as not reasonably calculated to lead to the discovery of admissible evidence, with respect to "the following portion of Applicant's Mark," insofar as it seeks information pertaining to Applicant's Mark other than in its entirety.

Applicant responds and admits that Applicant has used Applicant's Mark as depicted in Exhibit A attached hereto.

THREE NOTCH'D BREWING COMPANY, LLC,
Applicant

Date: March 17, 2015

By: / Robert C. Van Arnam /
Robert C. Van Arnam, Esquire
Williams Mullen
301 Fayetteville Street, Suite 1700
Raleigh, NC 27601
Telephone: (919) 981-4000
Facsimile: (919) 981-4300
Email: rvanarnam@williamsmullen.com

Thomas F. Bergert, Esquire
Williams Mullen
321 East Main St., Suite 400
Charlottesville, Virginia 22902-3200
Telephone: (434) 951-5700
Facsimile: (434) 817-0977
Email: tbergert@williamsmullen.com

Counsel for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of March, 2015, the foregoing APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF DOCUMENT REQUESTS has been served on Opposer, Monster Energy Company, by mailing a true and correct copy of the same by first class mail, postage prepaid, to:

Stephen J. Nataupsky
Diane M. Reed
Jonathan A. Menkes
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614

/ Robert C. Van Arnam /
Robert C. Van Arnam, Esquire
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Email: rvanarnam@williamsmullen.com

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Charlottesville, Virginia 22902-3200
Telephone: (434) 951-5700
Facsimile: (434) 817-0977
Email: tbergert@williamsmullen.com

Counsel for Applicant

EXHIBIT 7

HIGHLY CONFIDENTIAL

FILED UNDER SEAL

EXHIBIT 8

1/20/2016

Three Notch'd Brewing Company

facebook Sign Up

Email or Phone Password Log In

Keep me logged in Forgot your password?

Three Notch'd Brewing Company is on Facebook.

To connect with Three Notch'd Brewing Company, sign up for Facebook today.

Sign Up Log In

Three Notch'd Brewing Company Brewery

Timeline About Photos Events More

Photos

Photos posted to Three Notch'd Brewl... Photos Albums

Three Notch'd BREWING COMPANY
TAPPING PARTY!

2016

https://www.facebook.com/ThreeNotchdBeer/photos_stream?ref=page_internal

1/20

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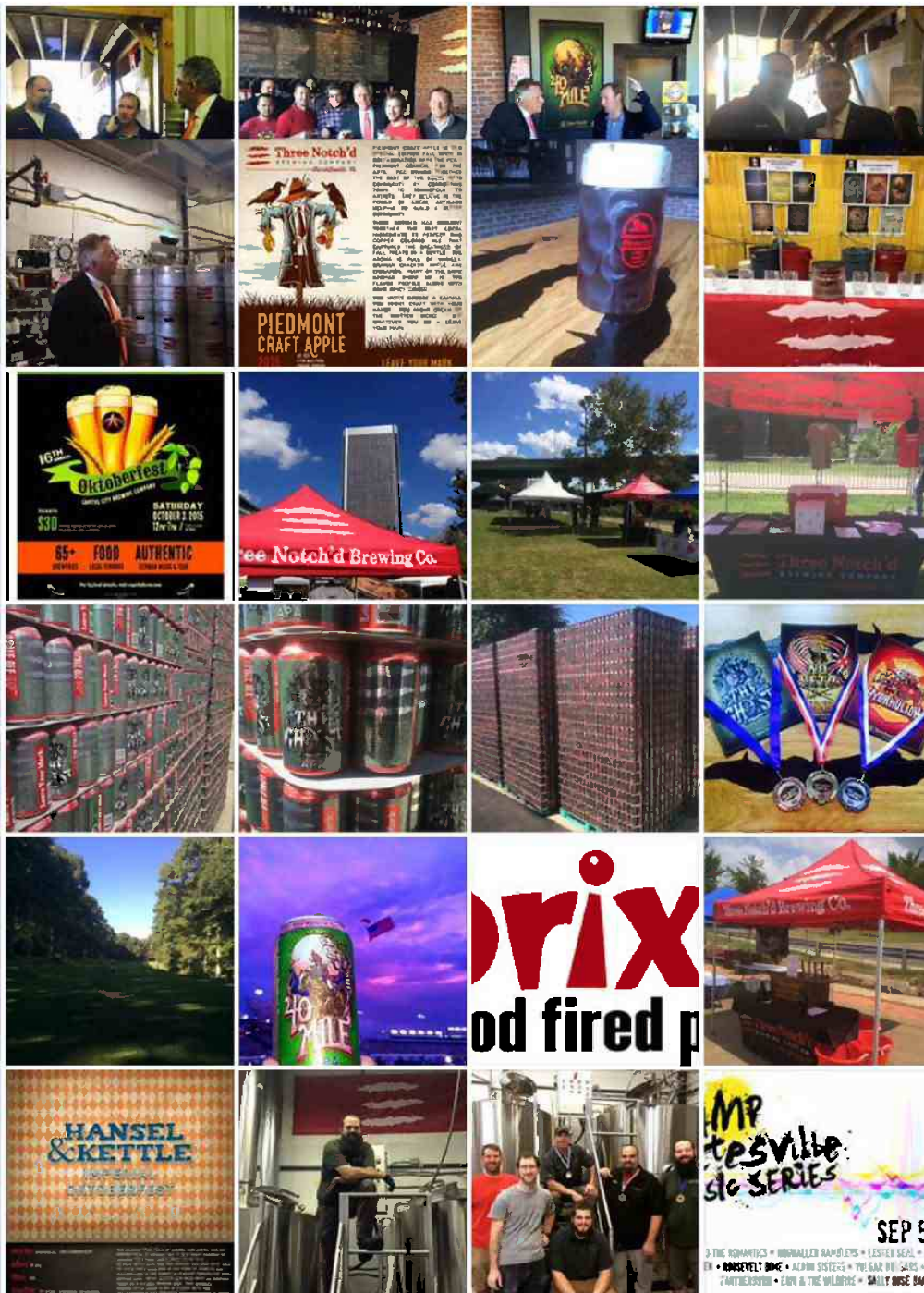
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1/20/2016

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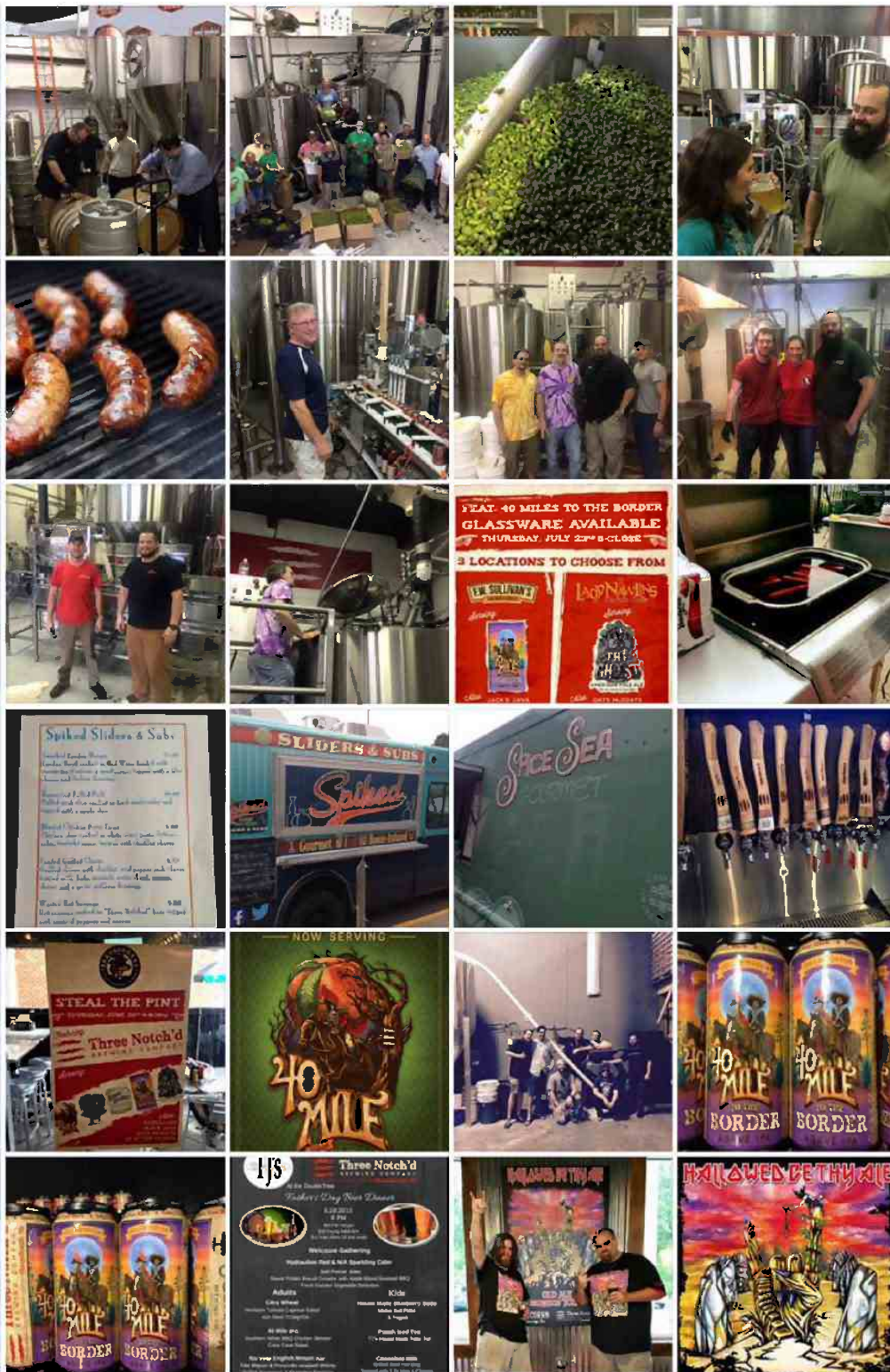
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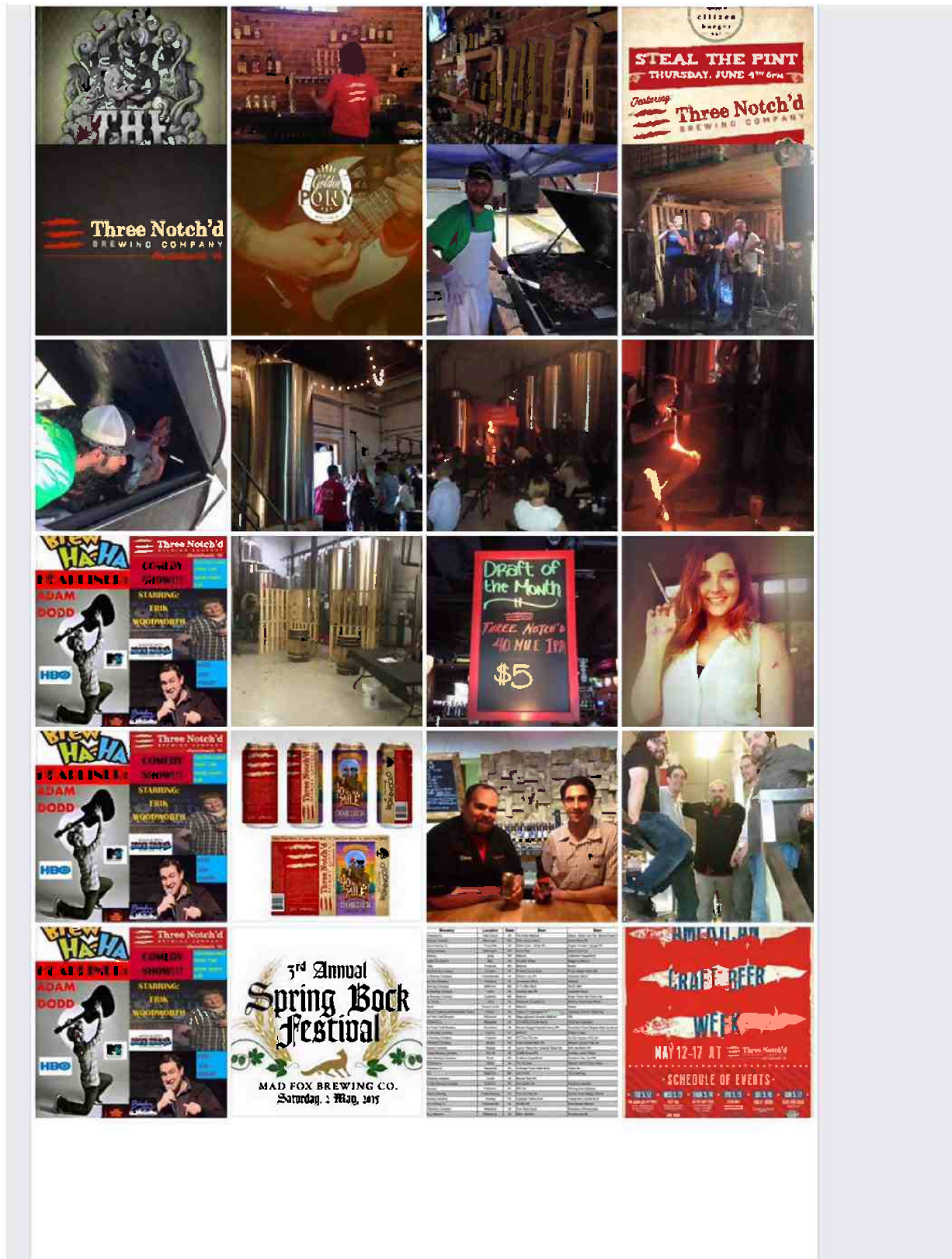
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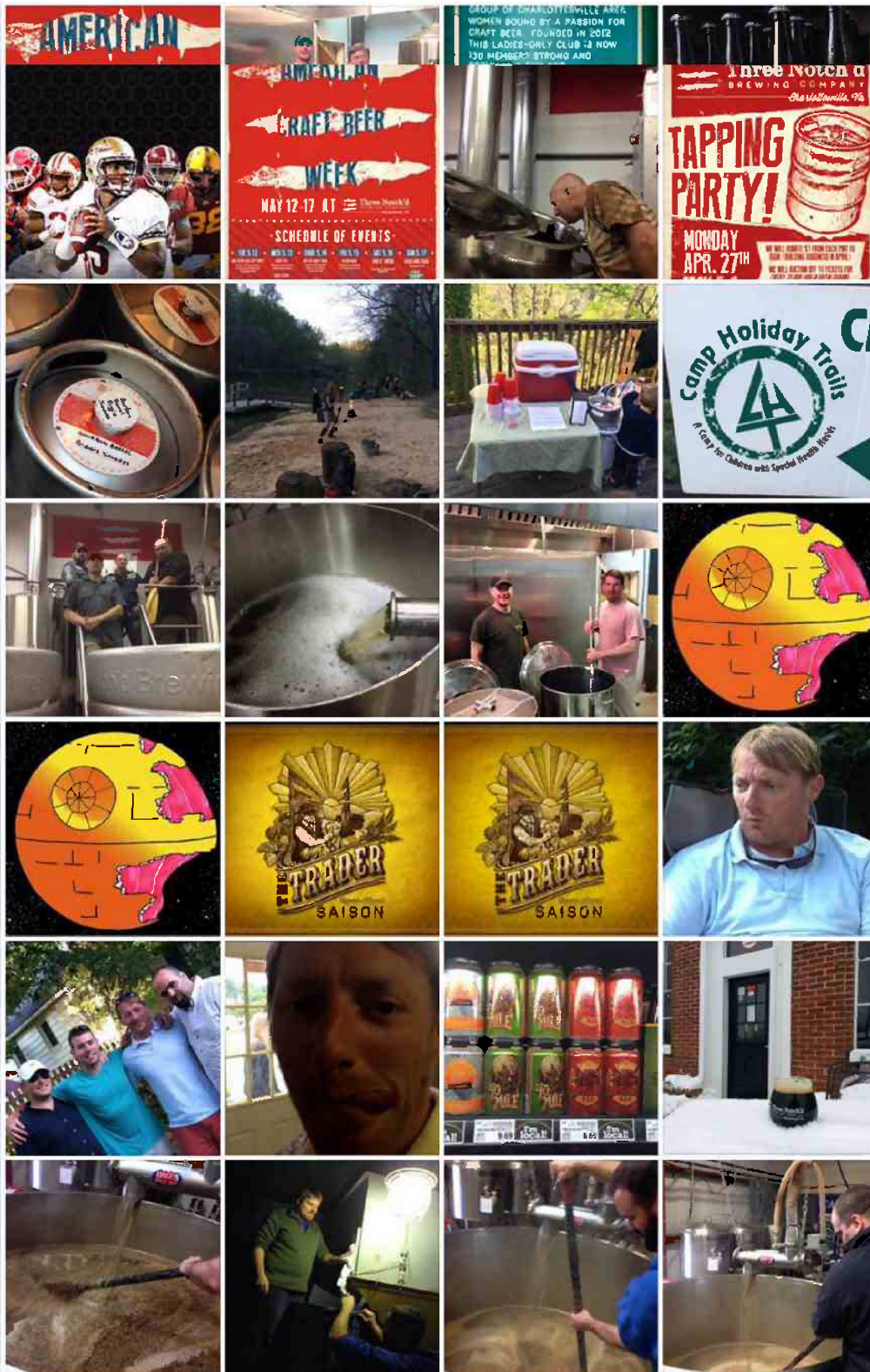
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Three Notch'd Brewing Company



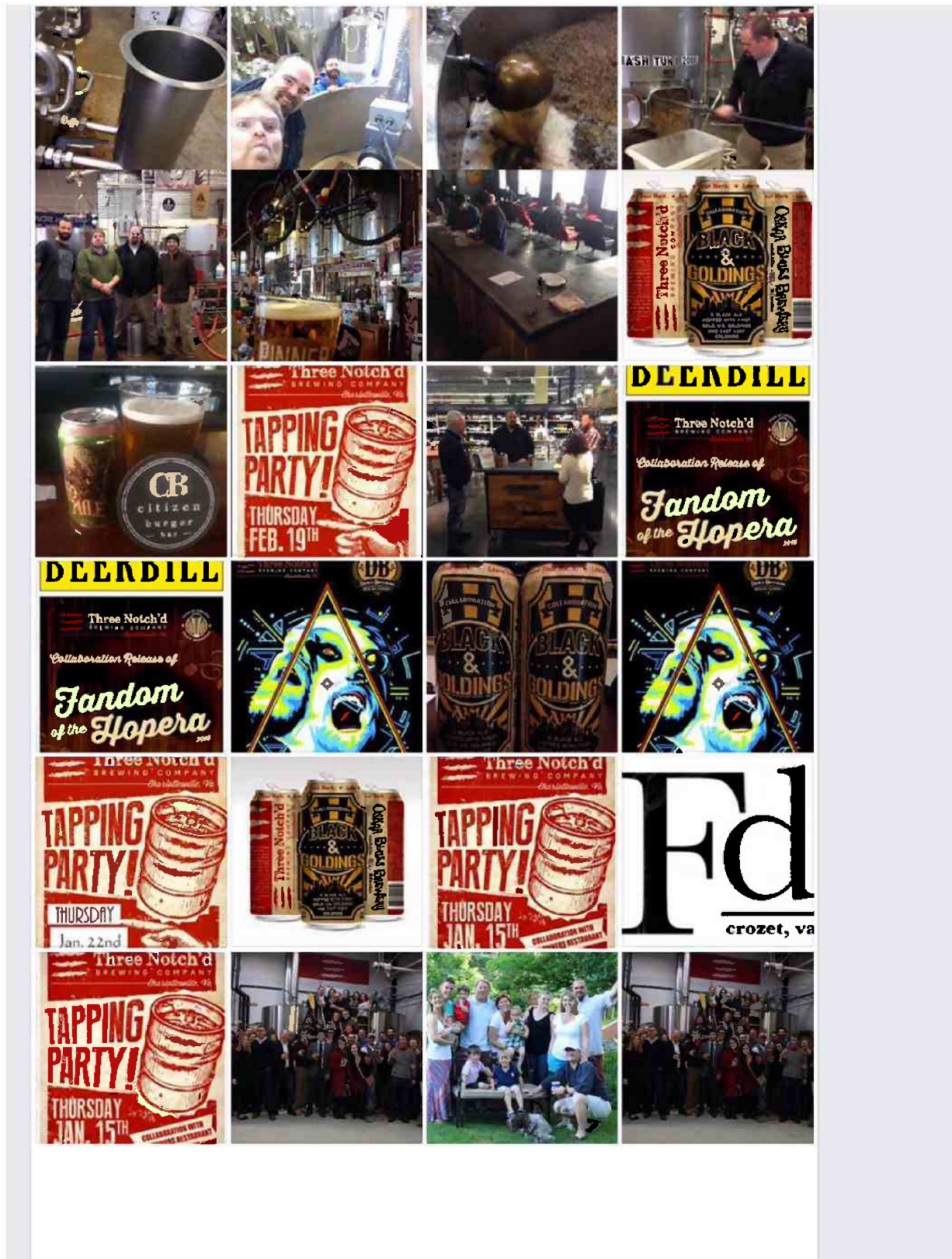
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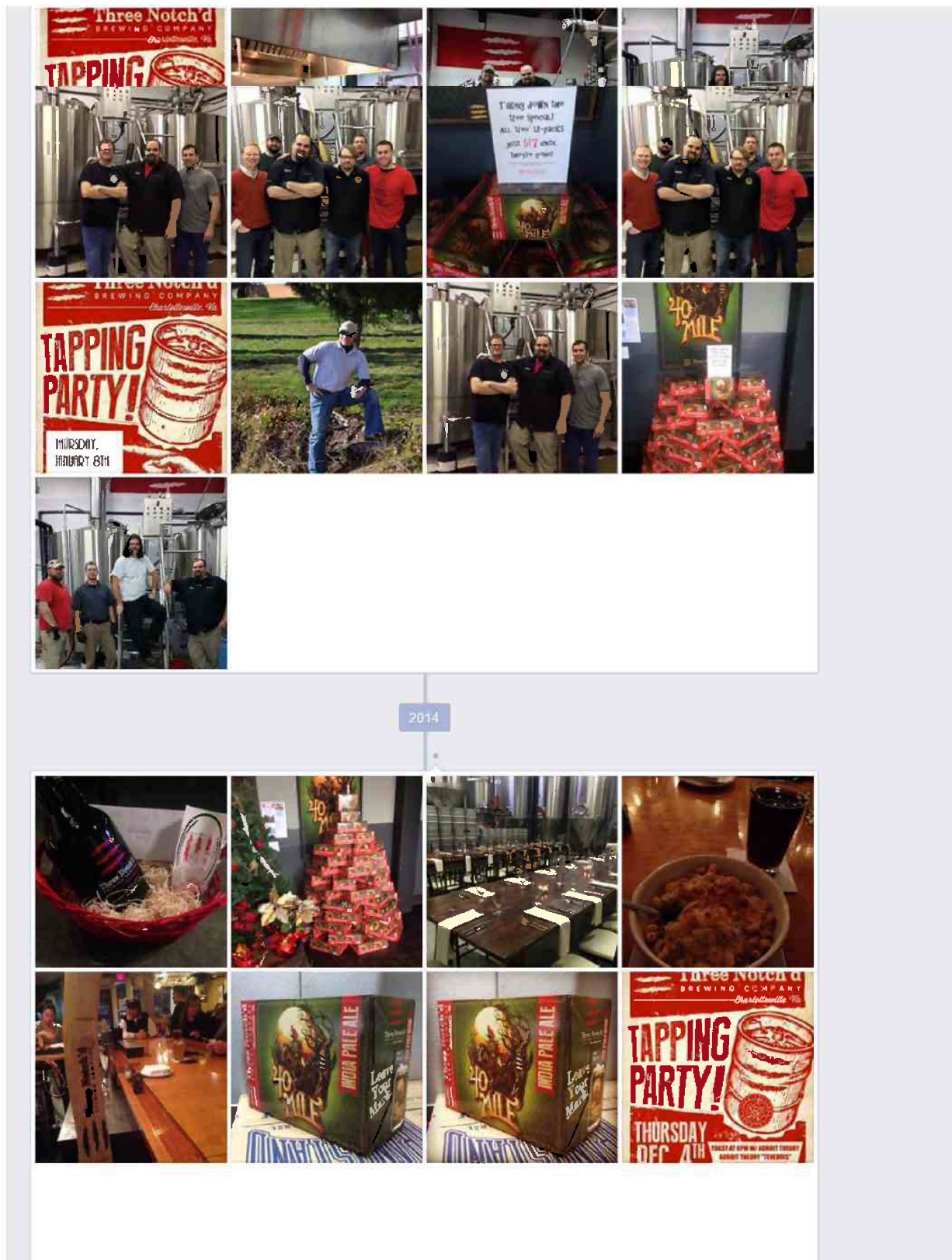
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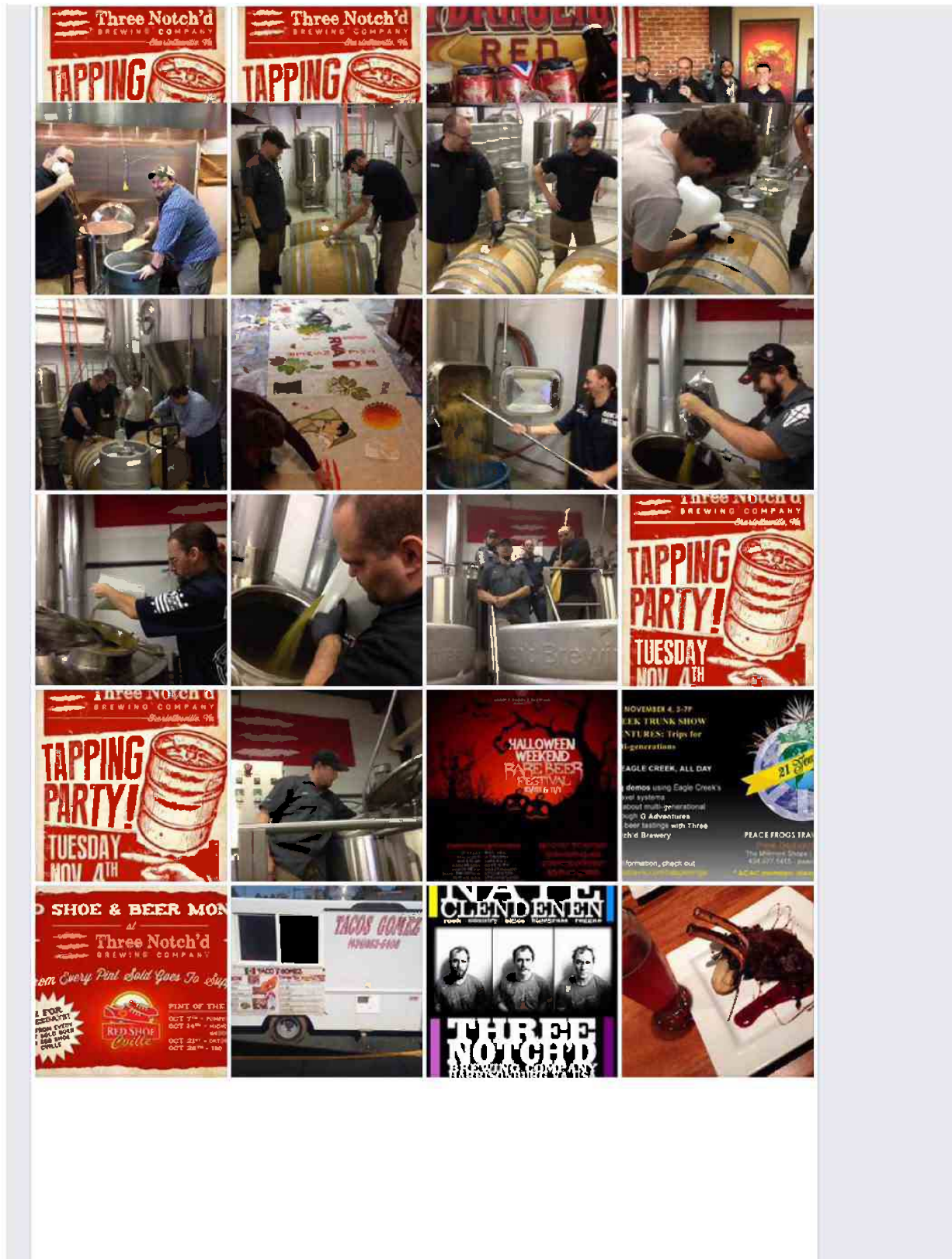
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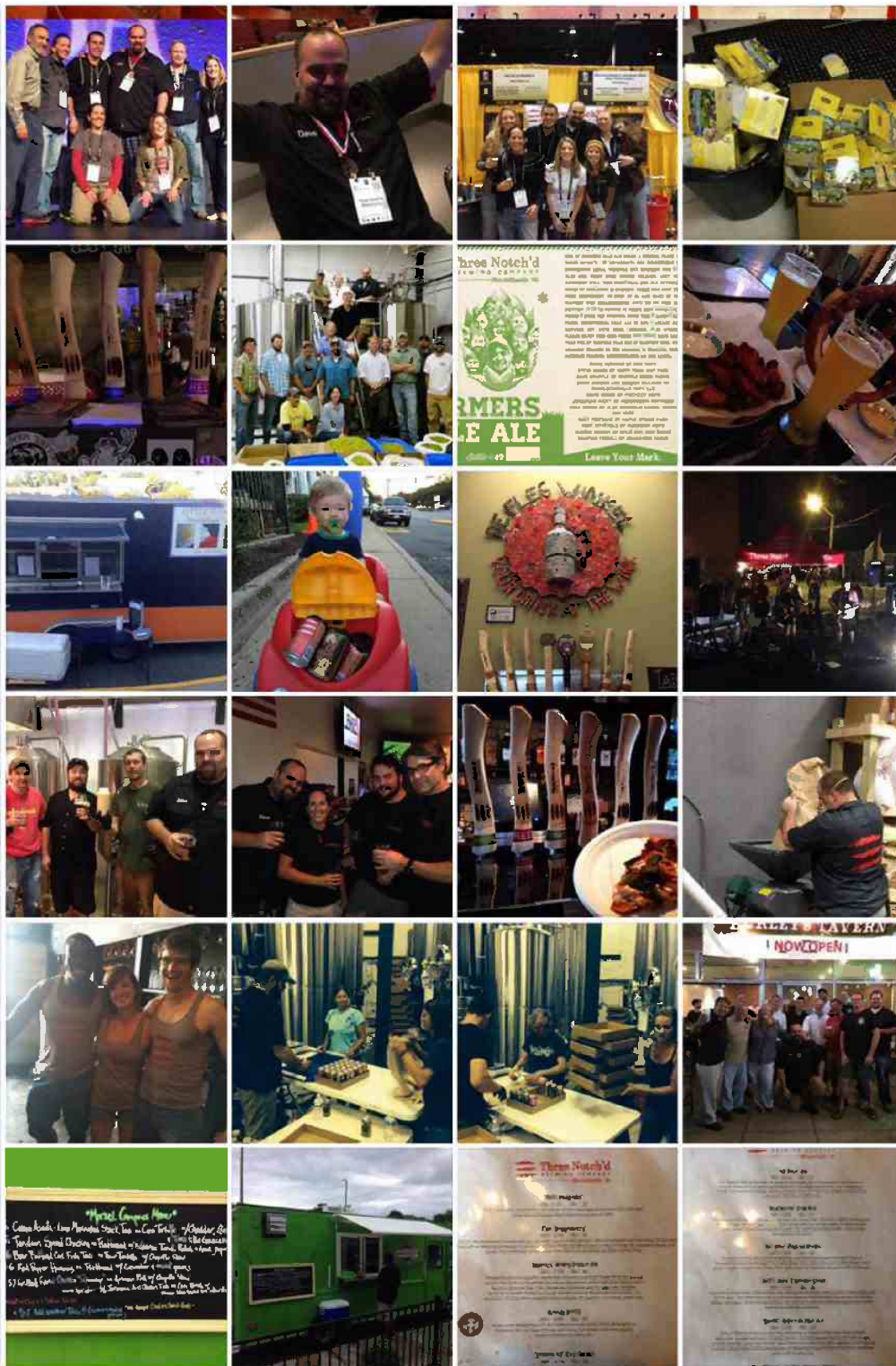
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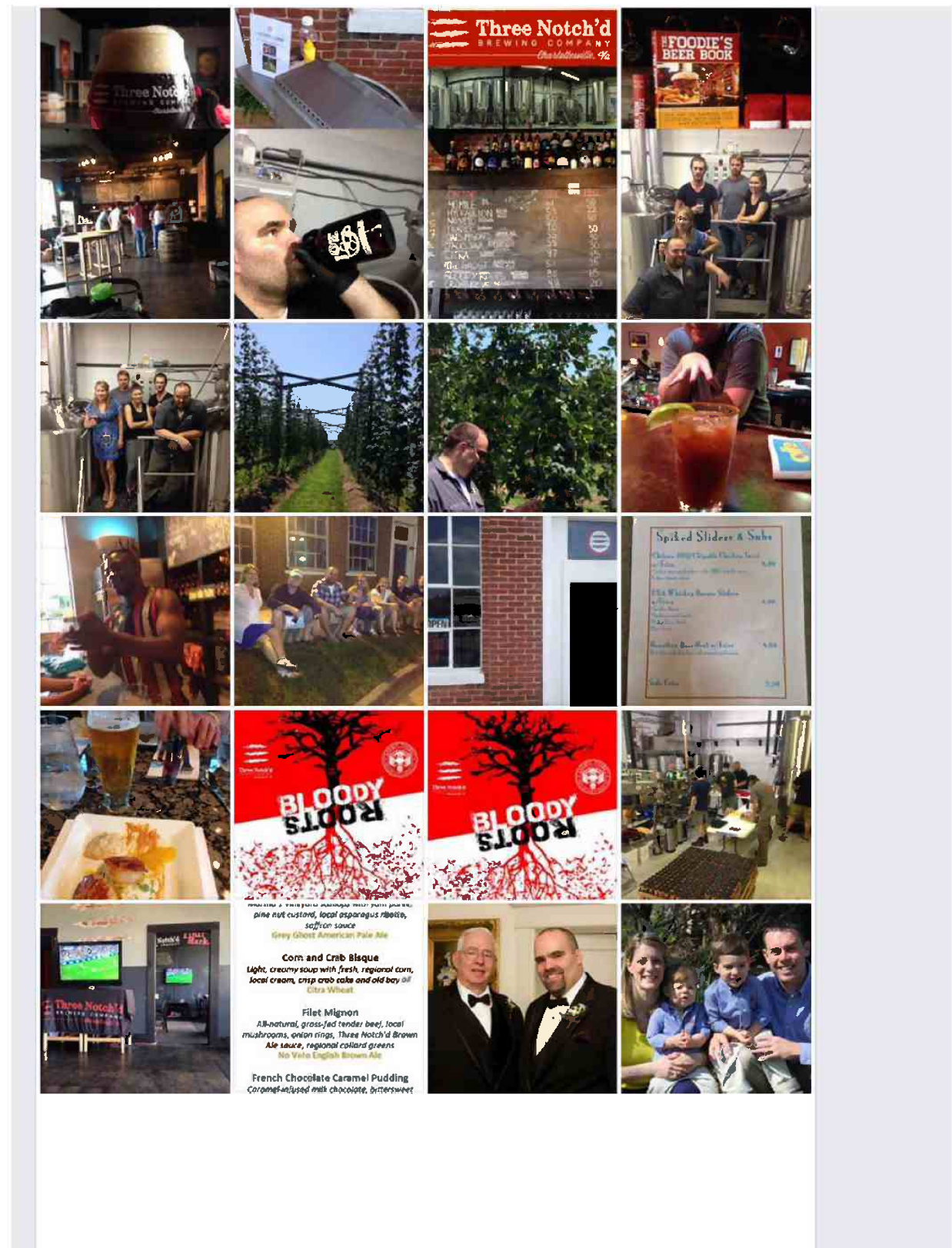
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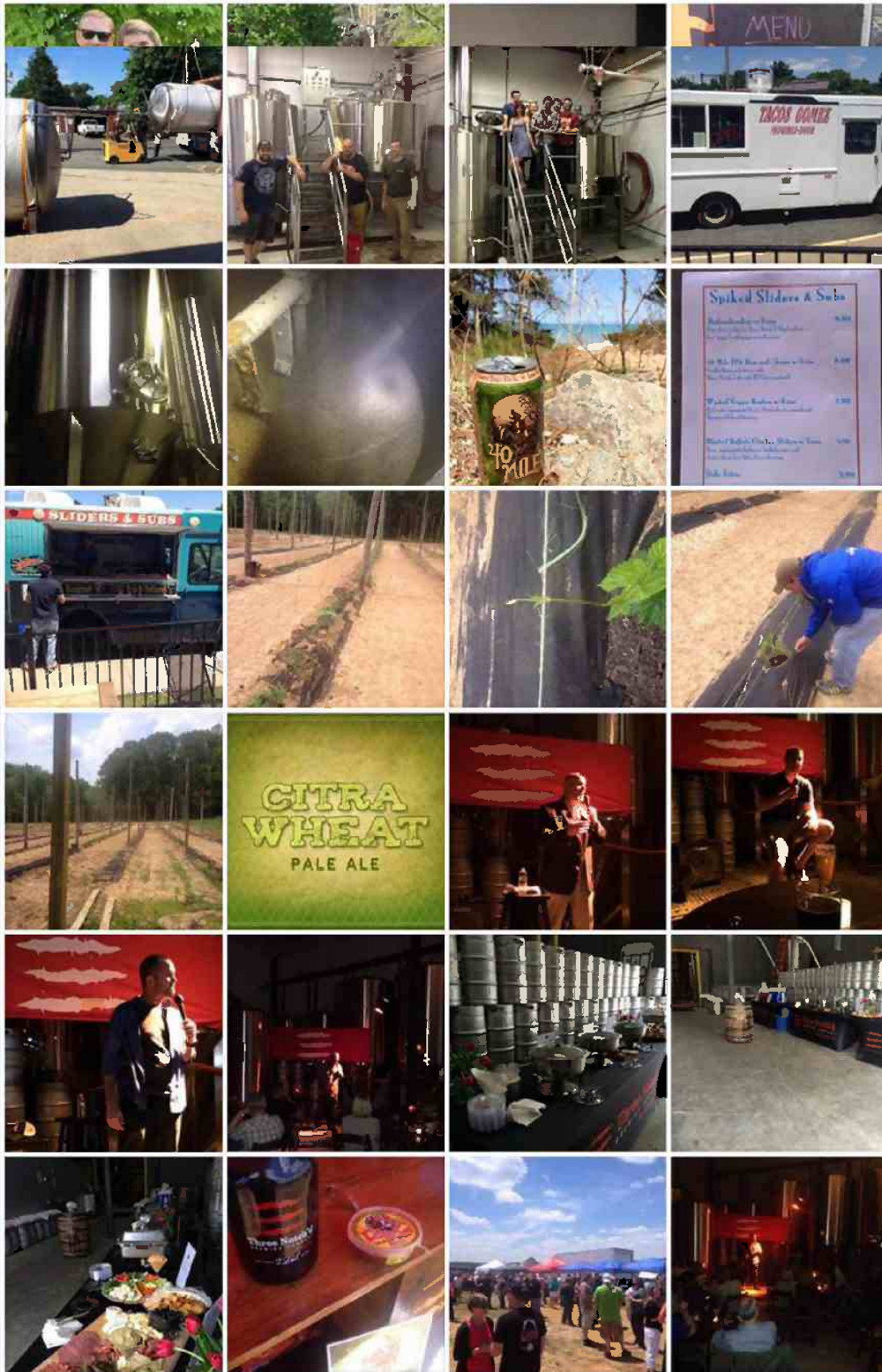
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1/20/2016

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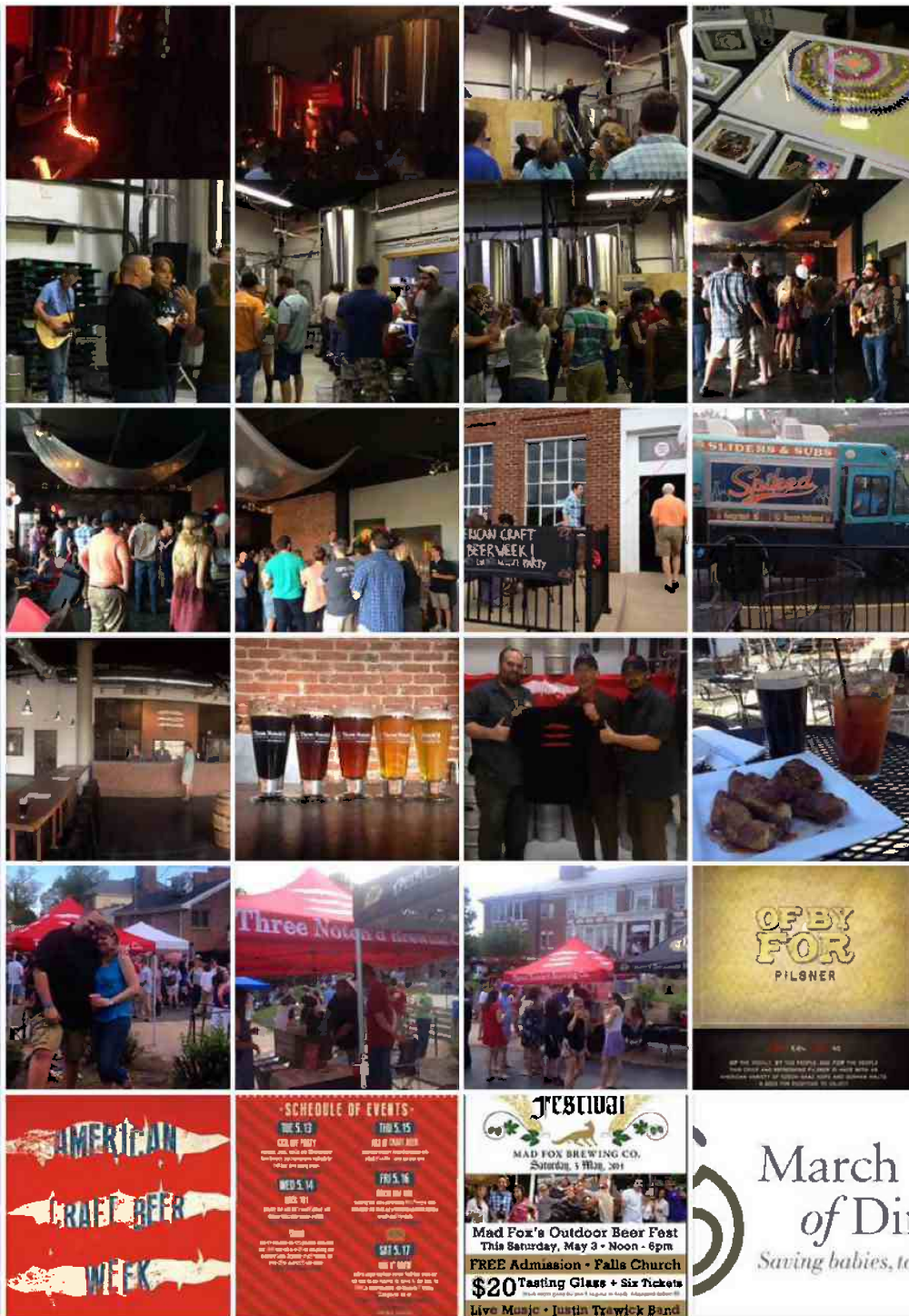
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1/20/2016

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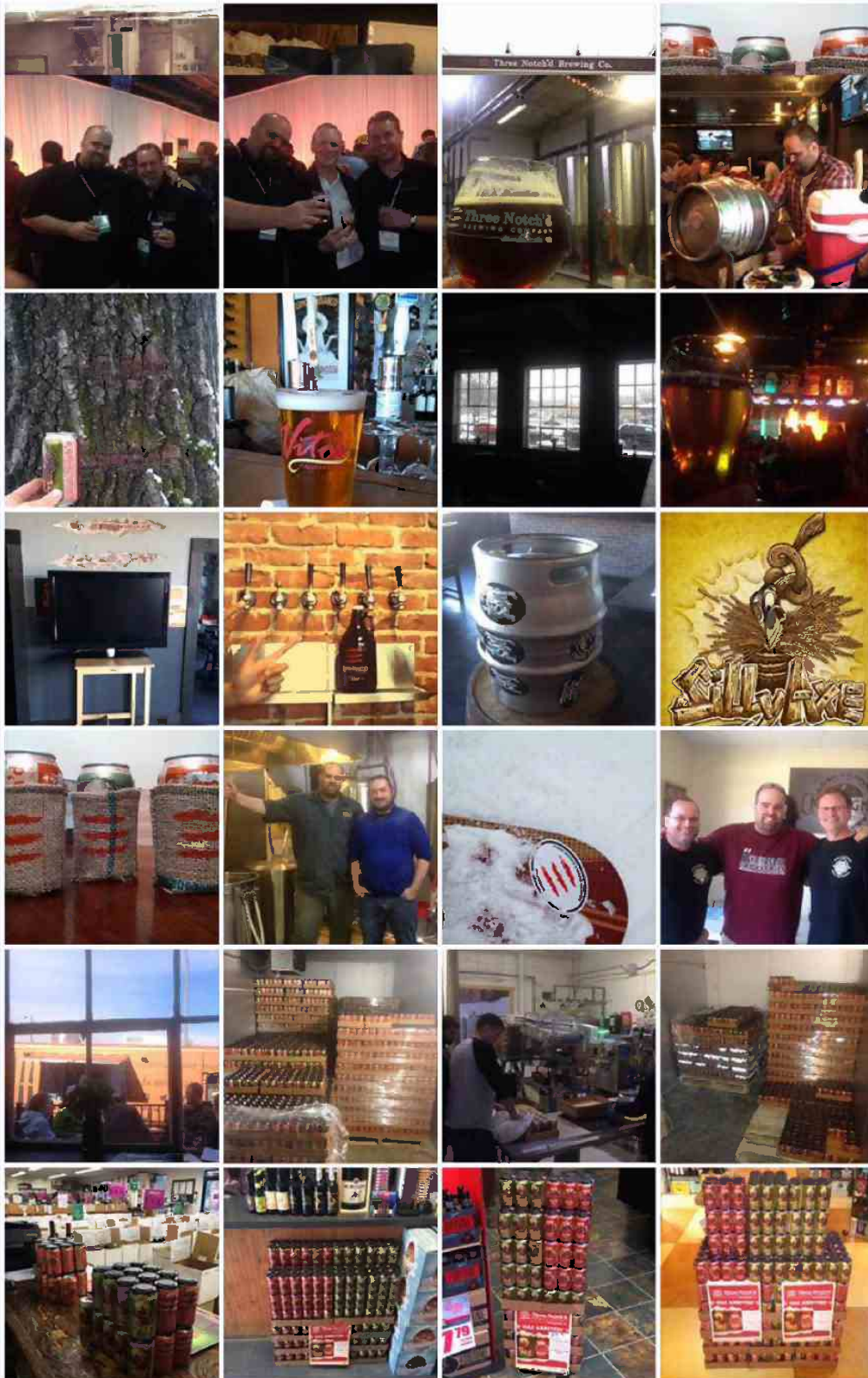
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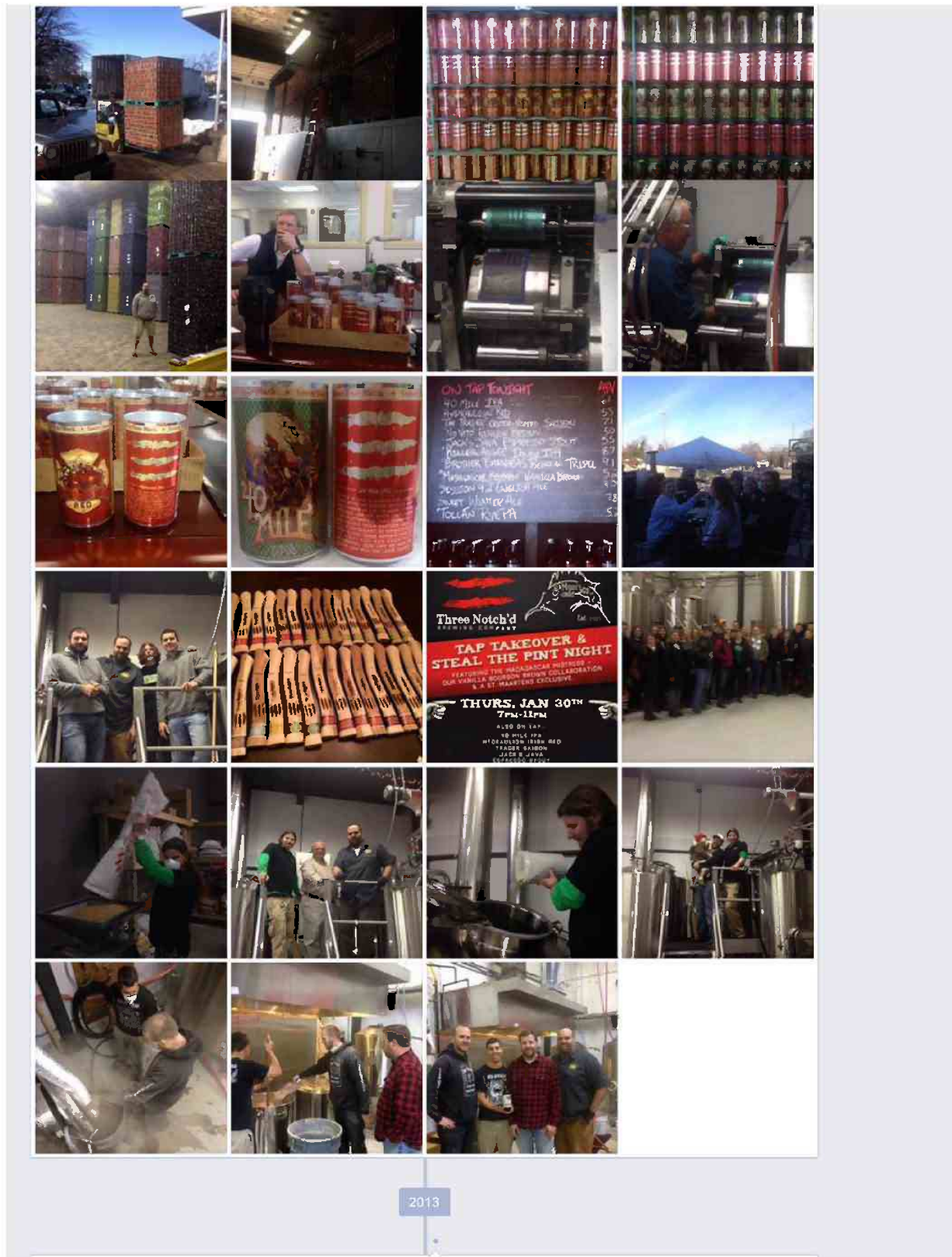
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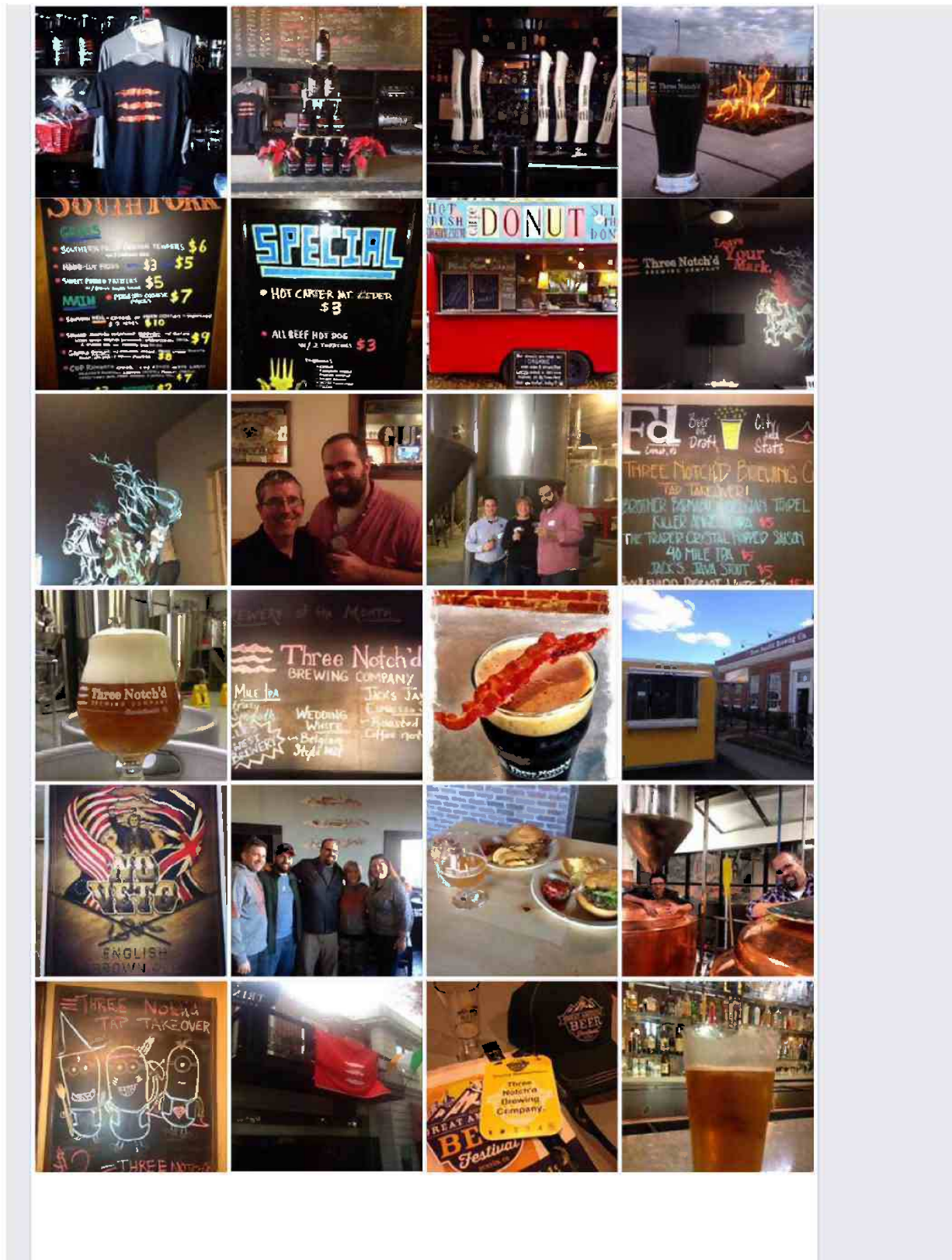
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15/20

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Three Notch'd Brewing Company



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16/20

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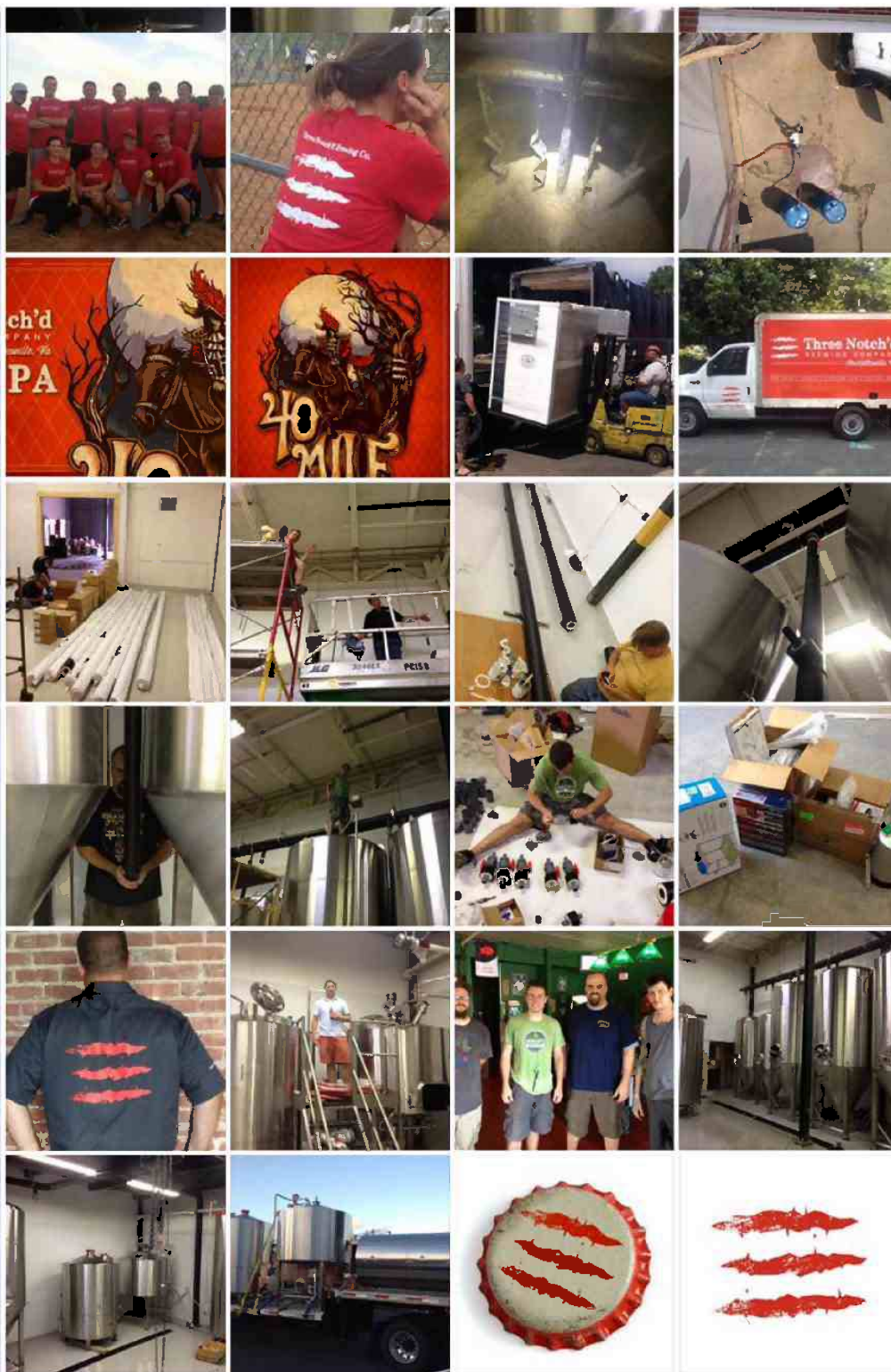
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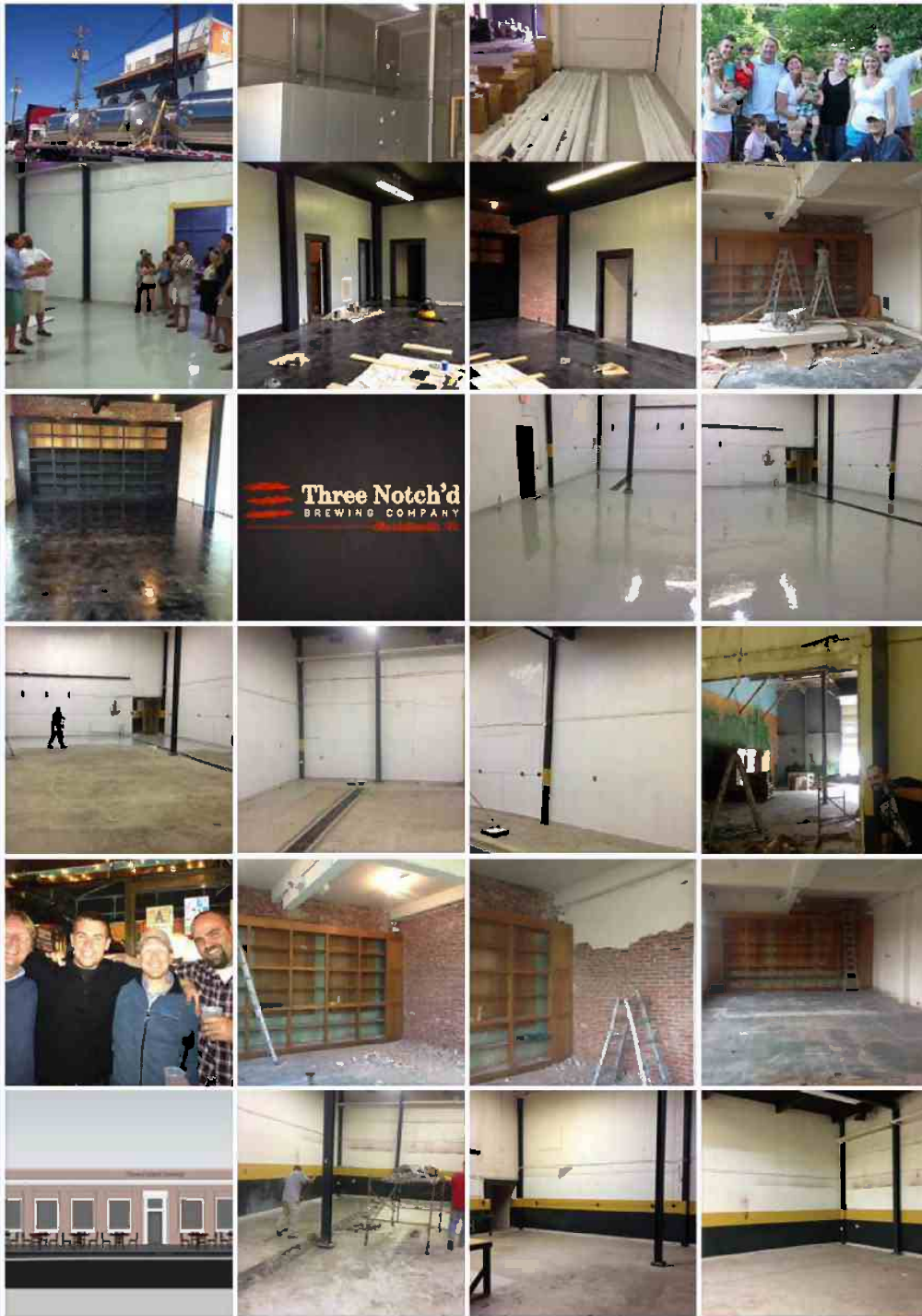


18/20

MEC00062394

1/20/2016

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19/20

MEC00062395

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MEC00062396

EXHIBIT 9

Trinkin



CITY: HARRISONBURG

THREE NOTCH'D BREWING - H'BURG

[Back to Profile](#)



NEARBY

JACK BROWN'S - H'BURG

0.2 miles away

BILLY JACK'S

0.2 miles away

MIDTOWNE BOTTLE SHOP

0.2 miles away

CAPITAL ALE HOUSE - H'BURG

0.2 miles away

PALE FIRE BREWING

0.3 miles away

BROTHERS CRAFT BREWING

0.6 miles away

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EXHIBIT 10

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos ...

1 of 12

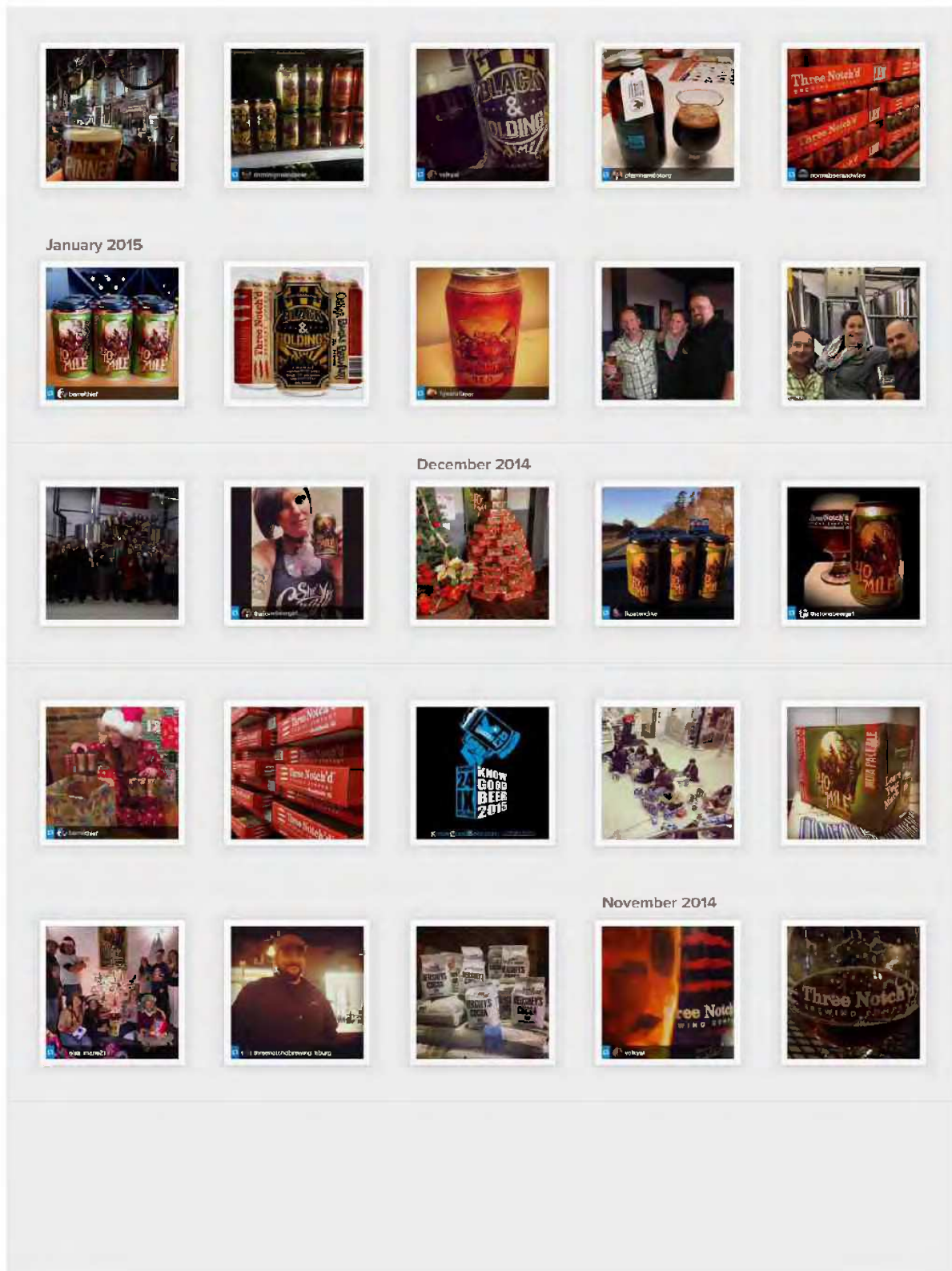


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2 of 12

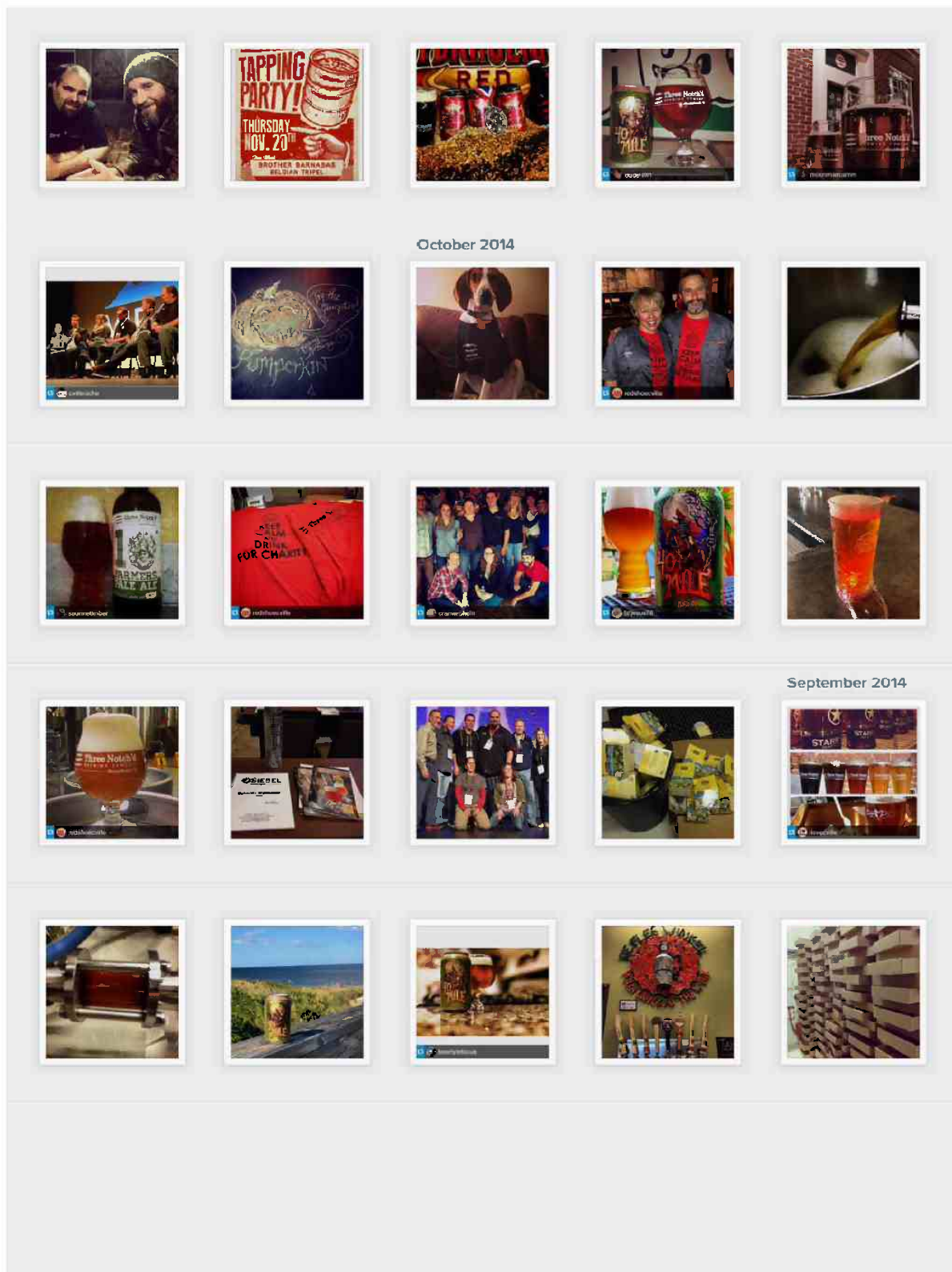


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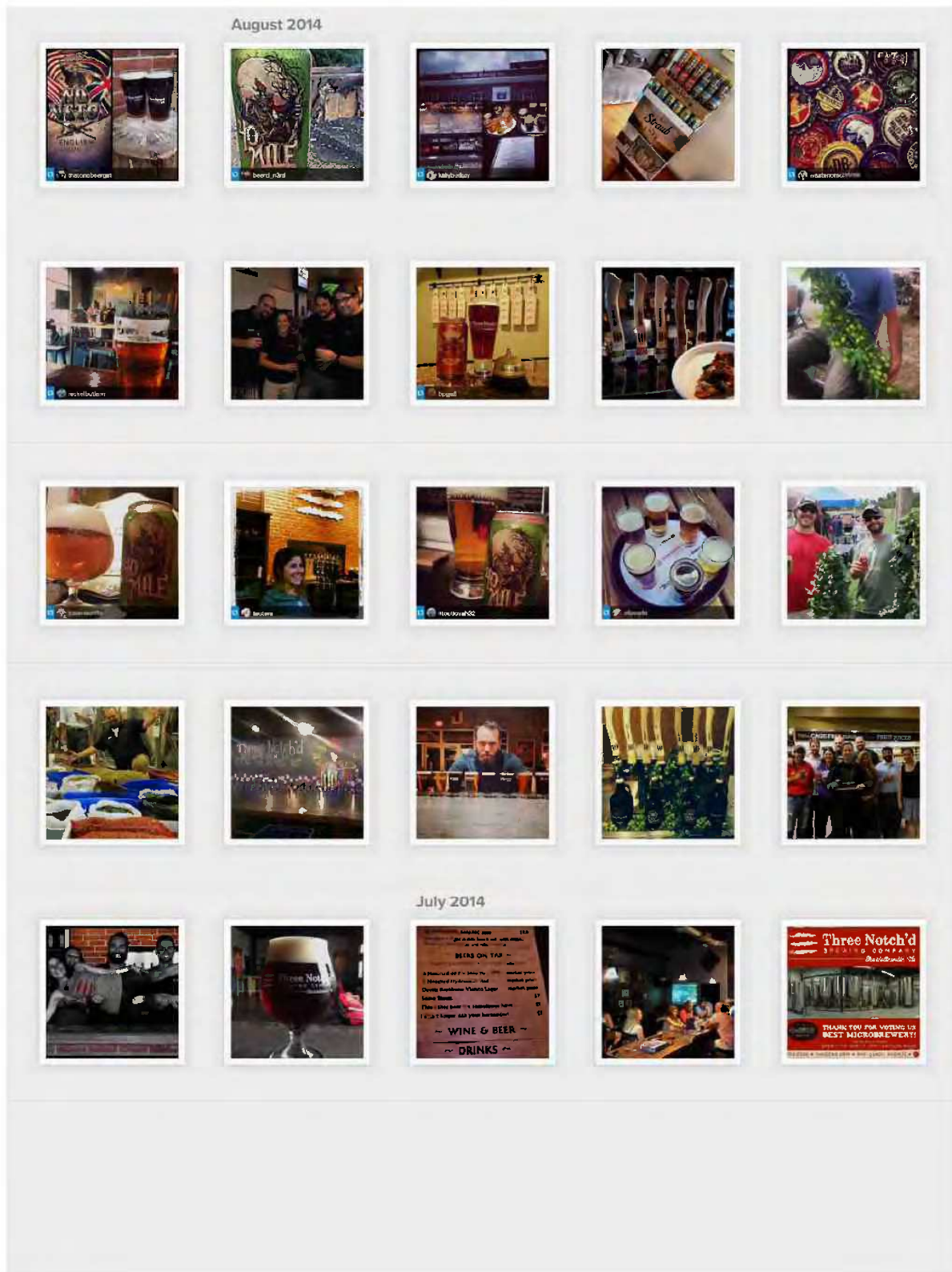


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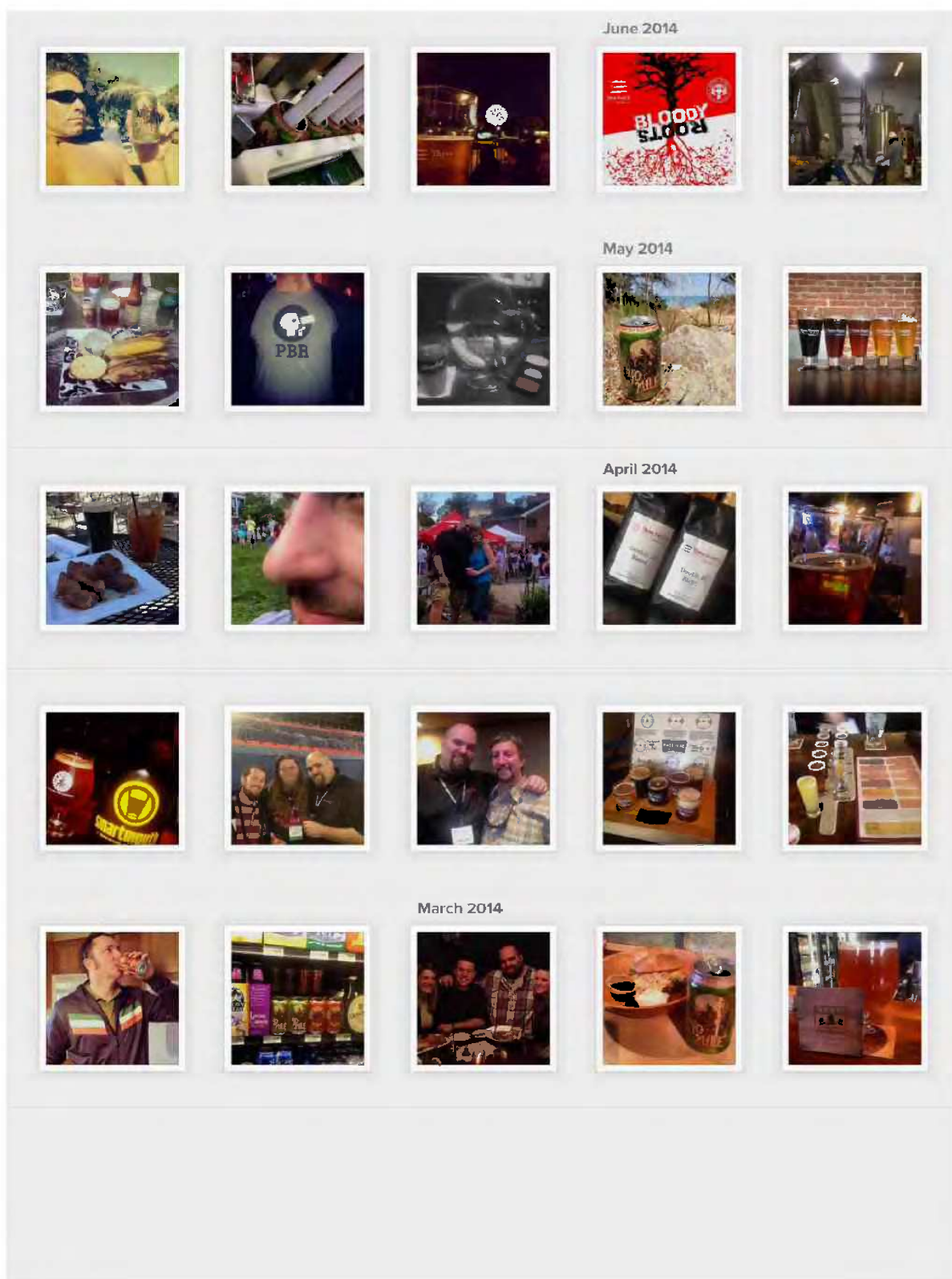


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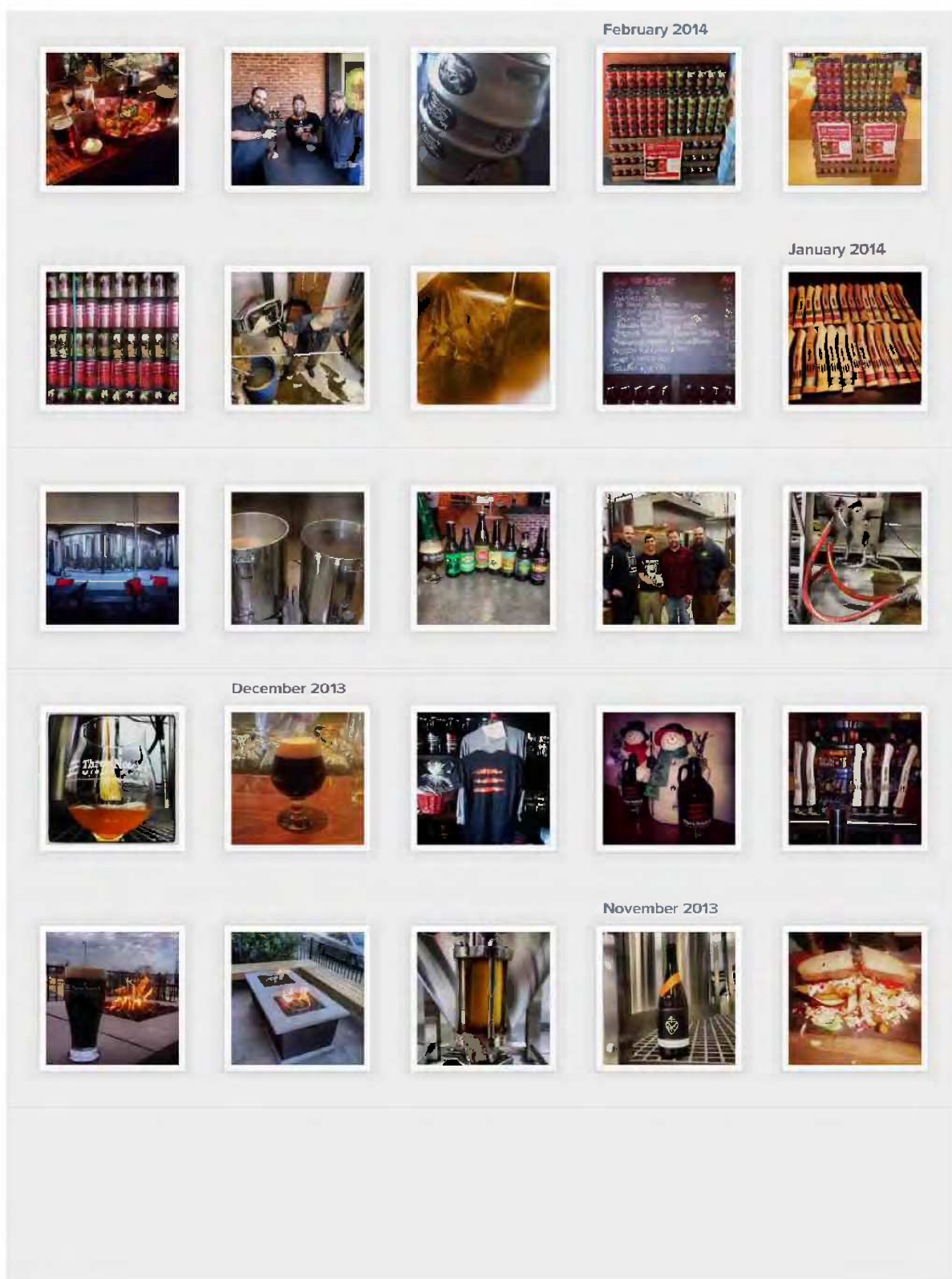


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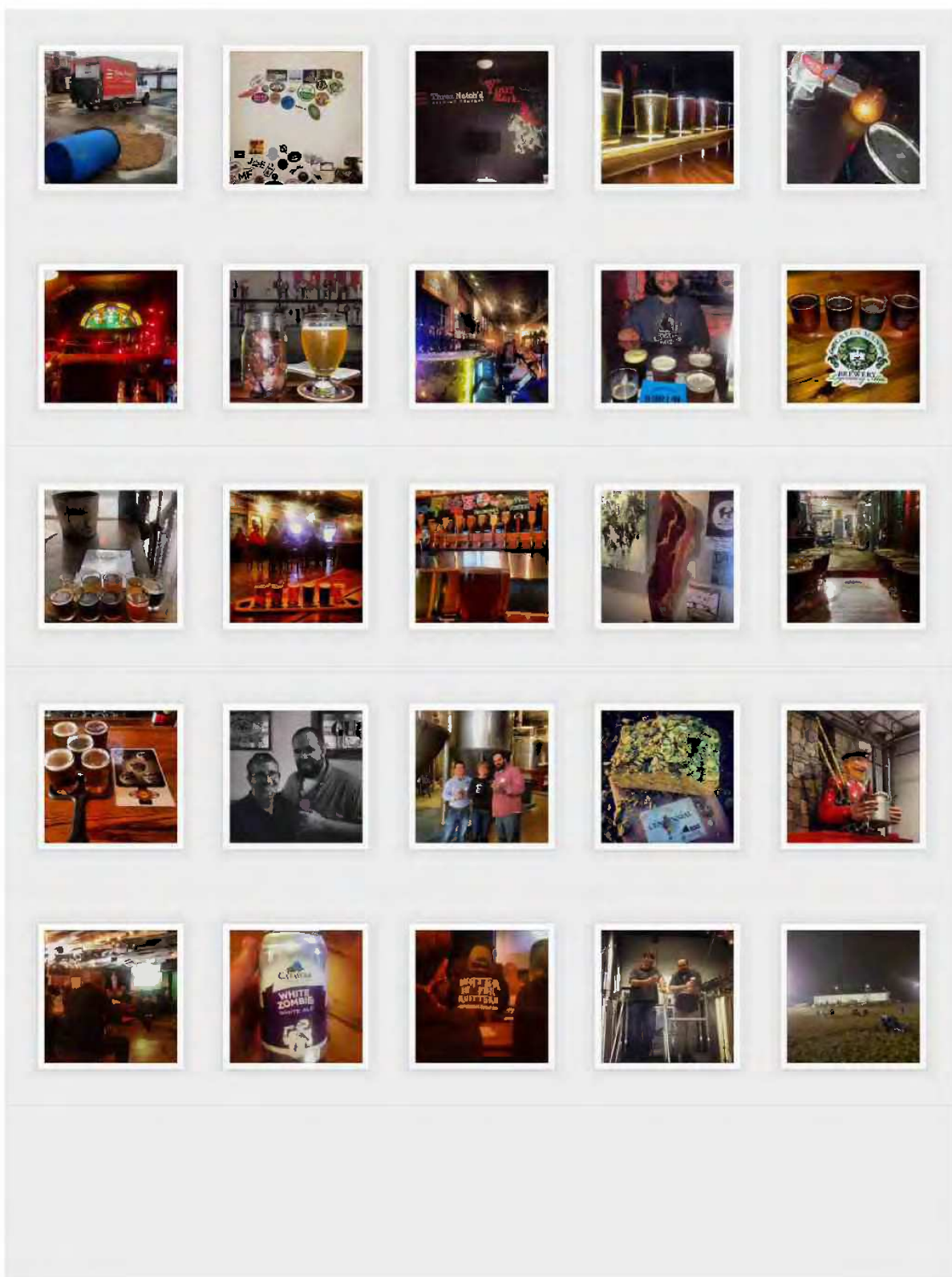


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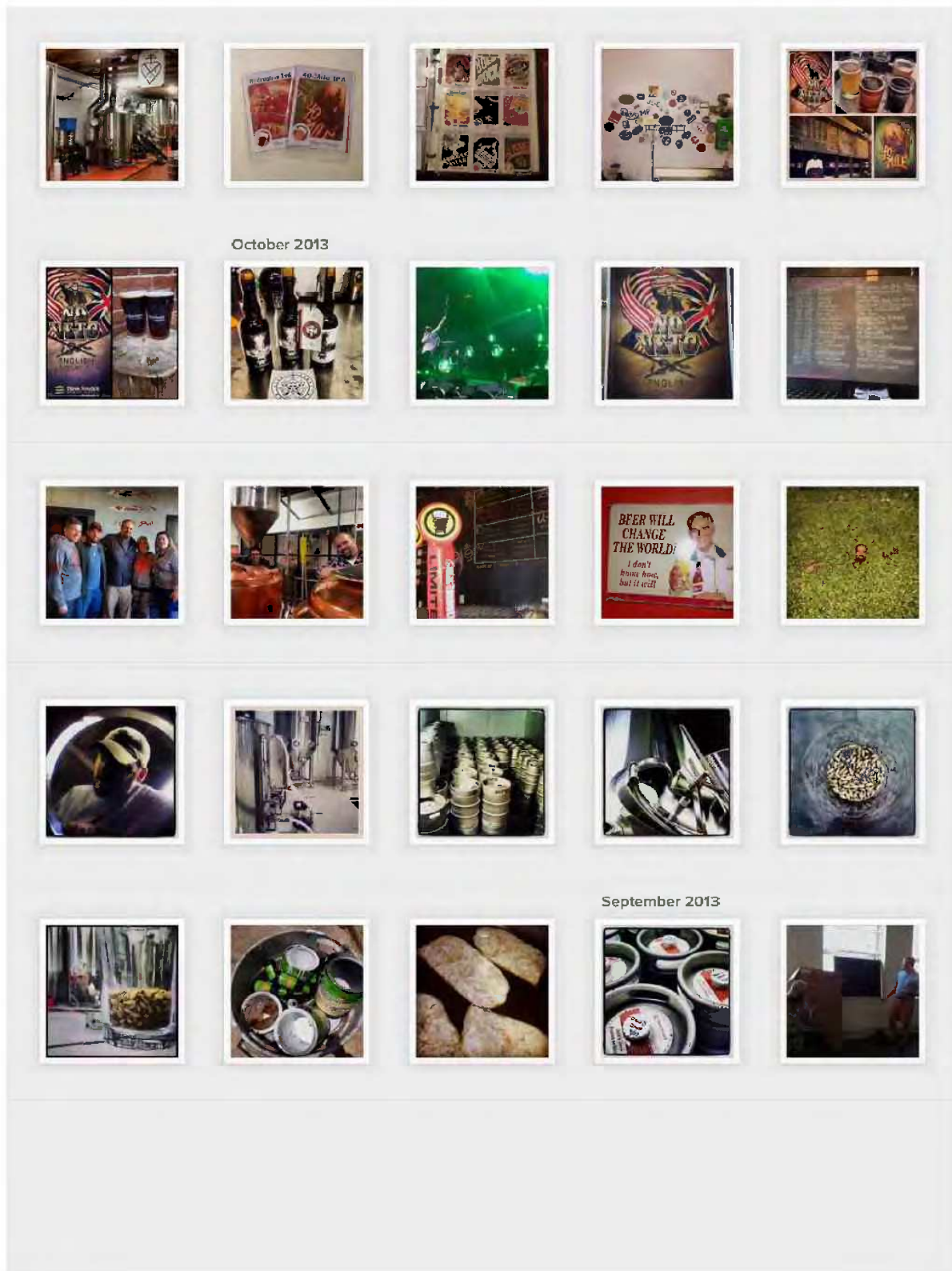


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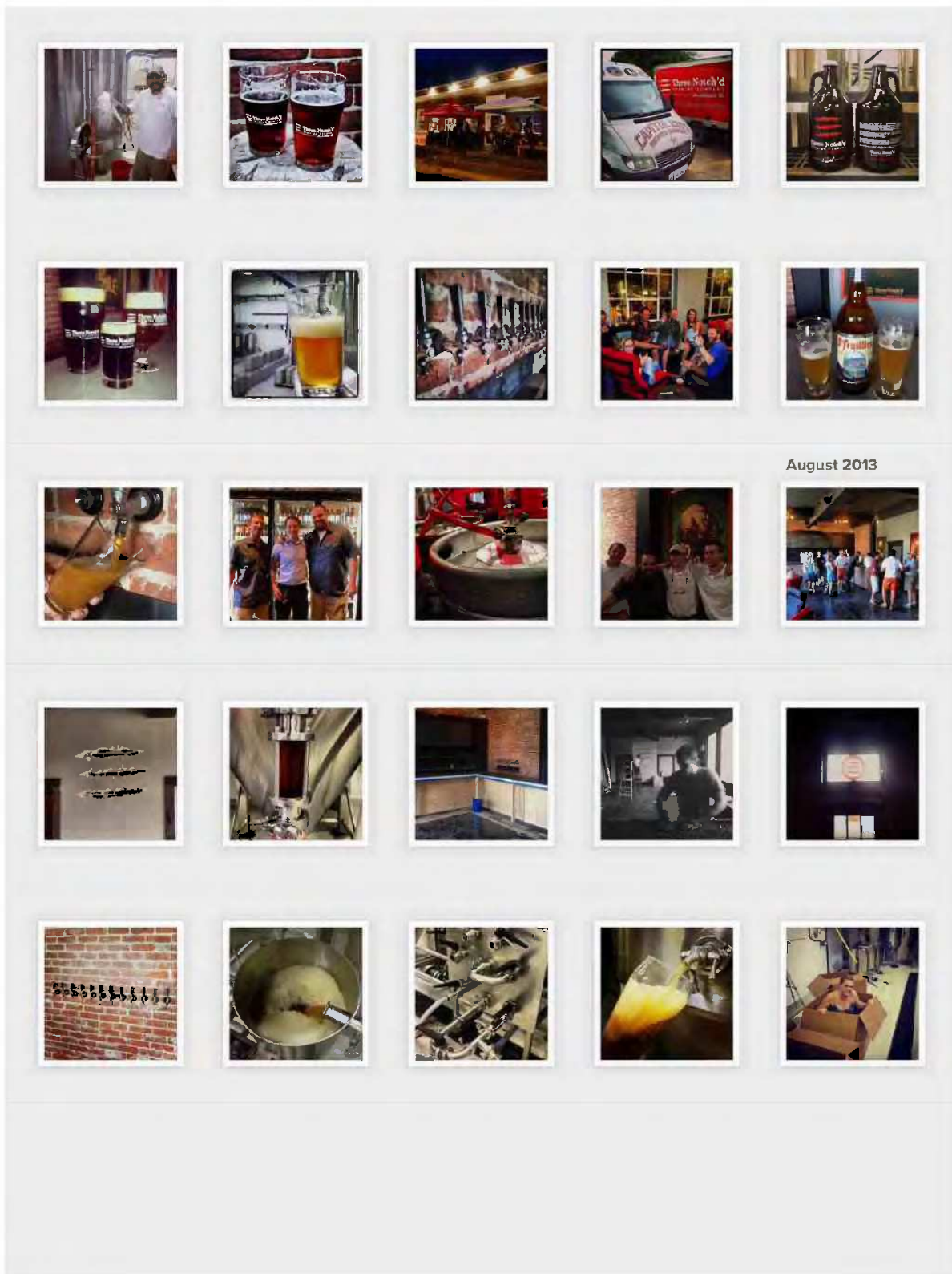


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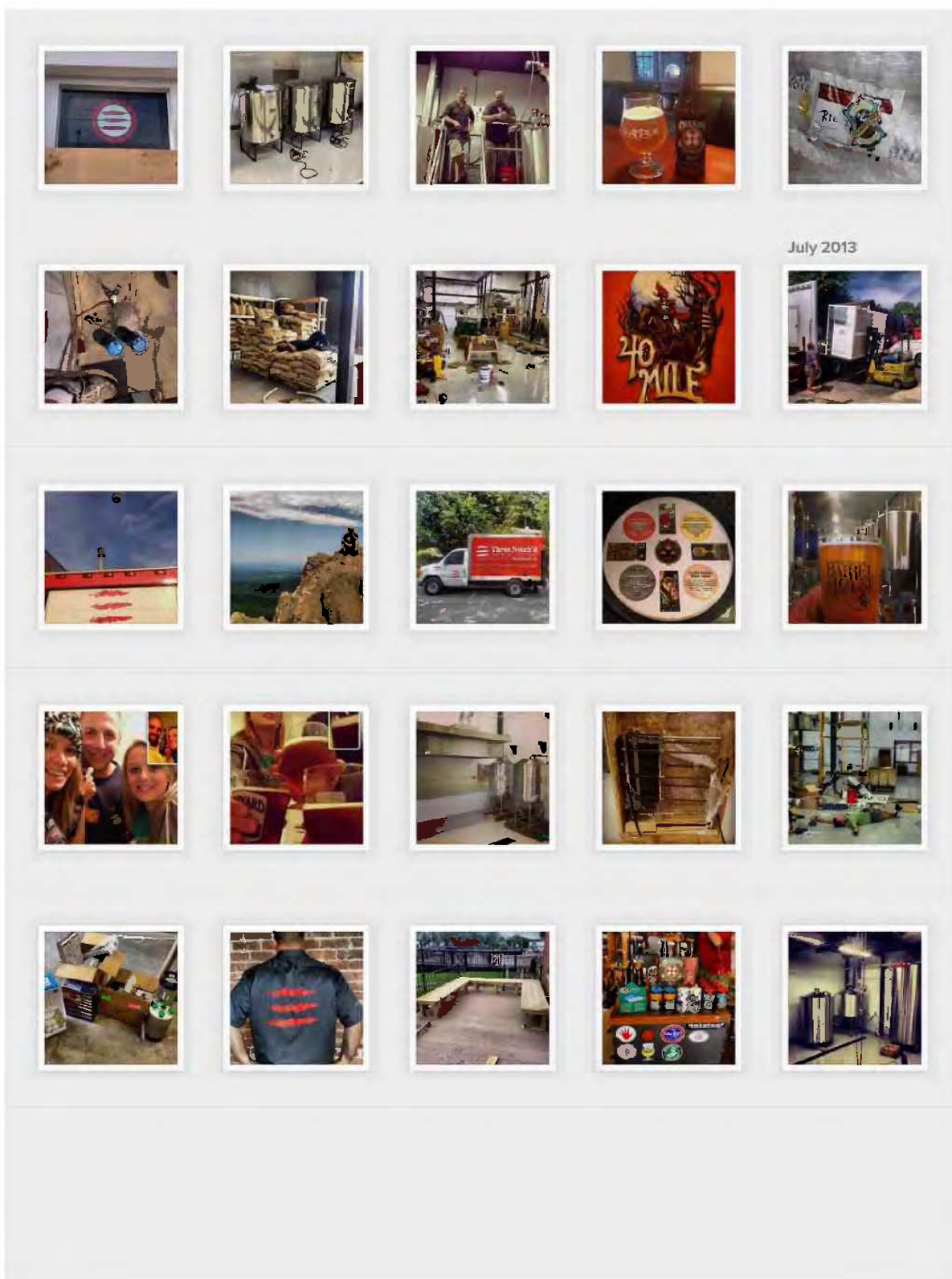


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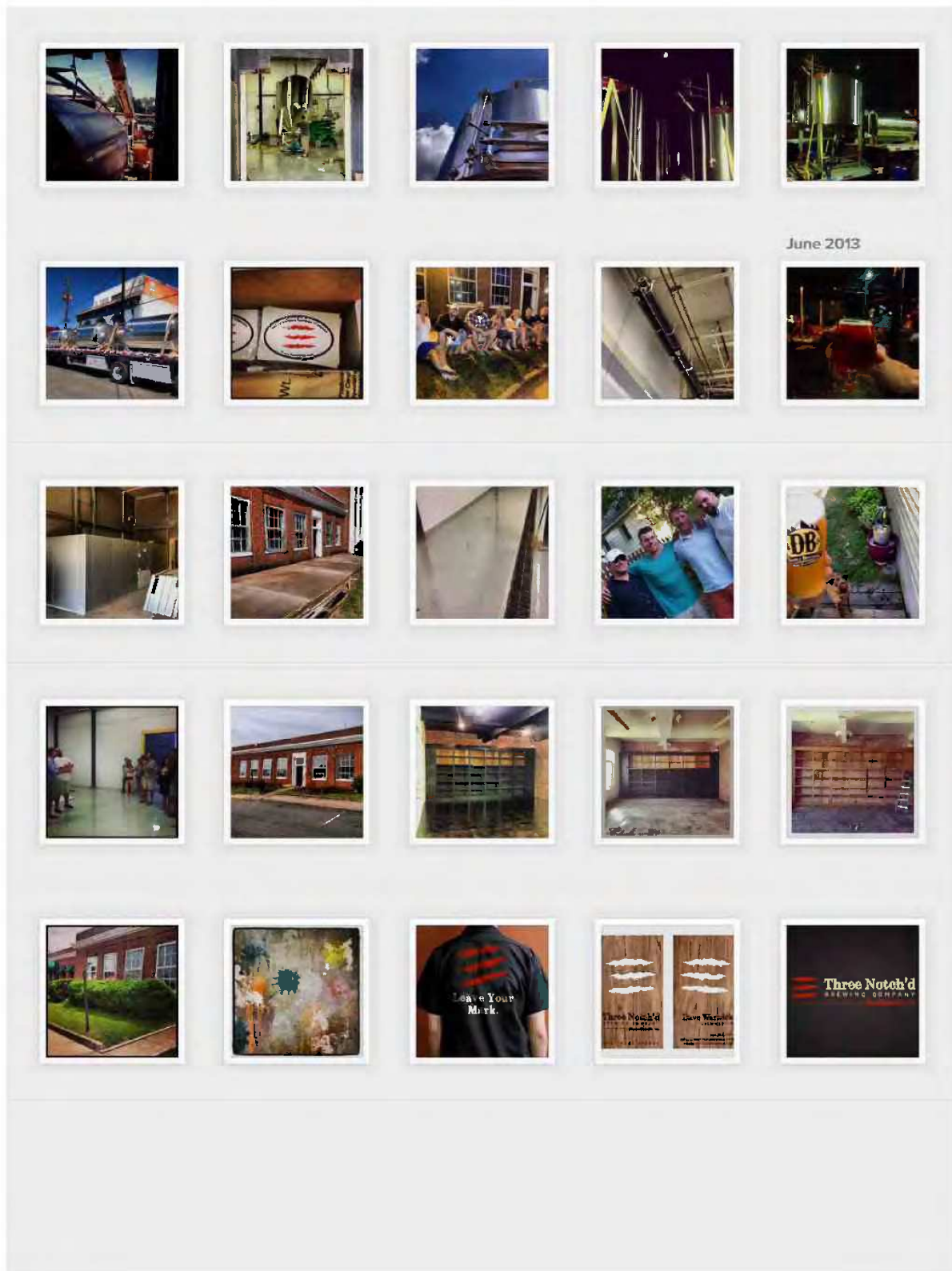


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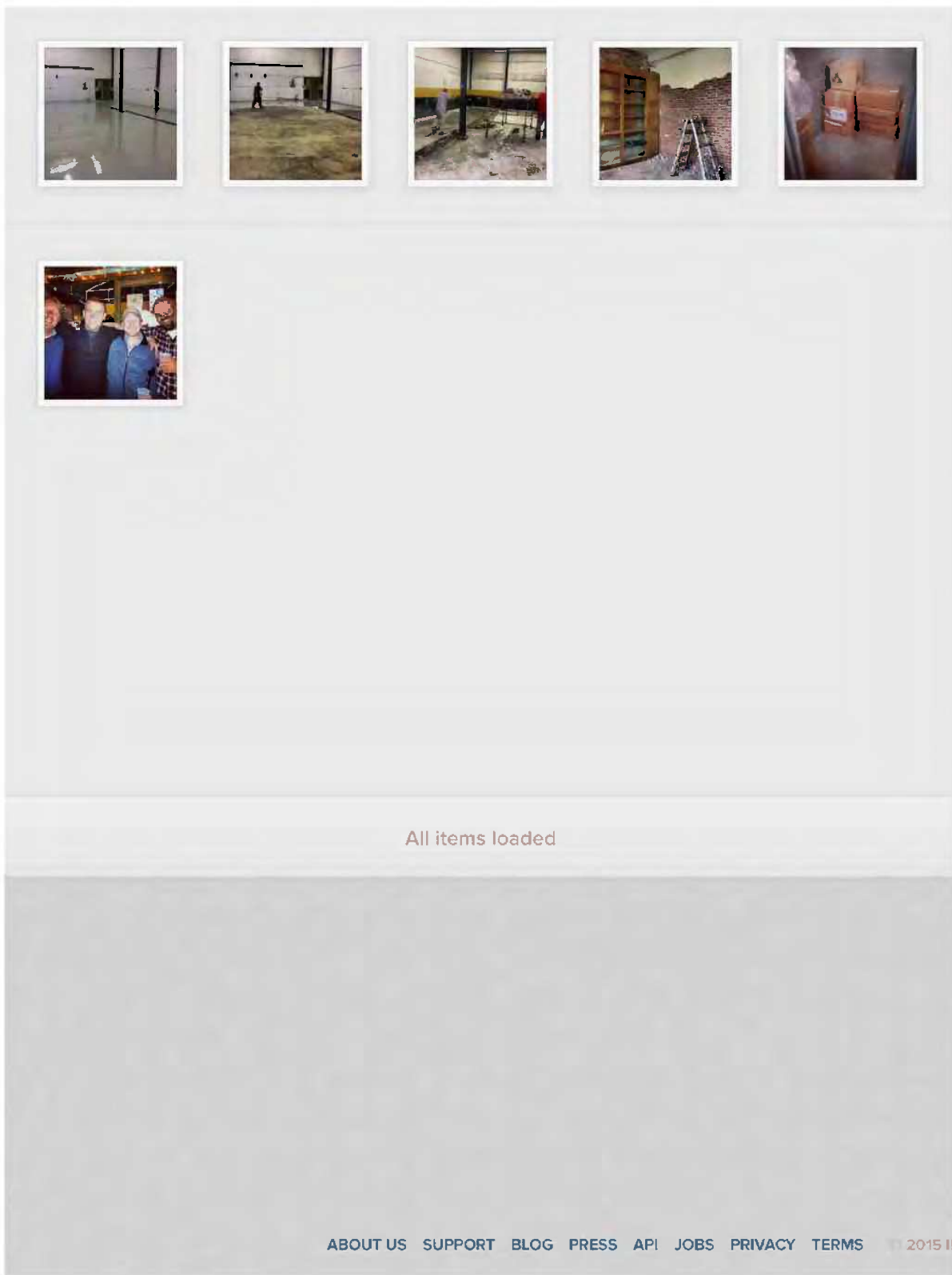


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Instagram

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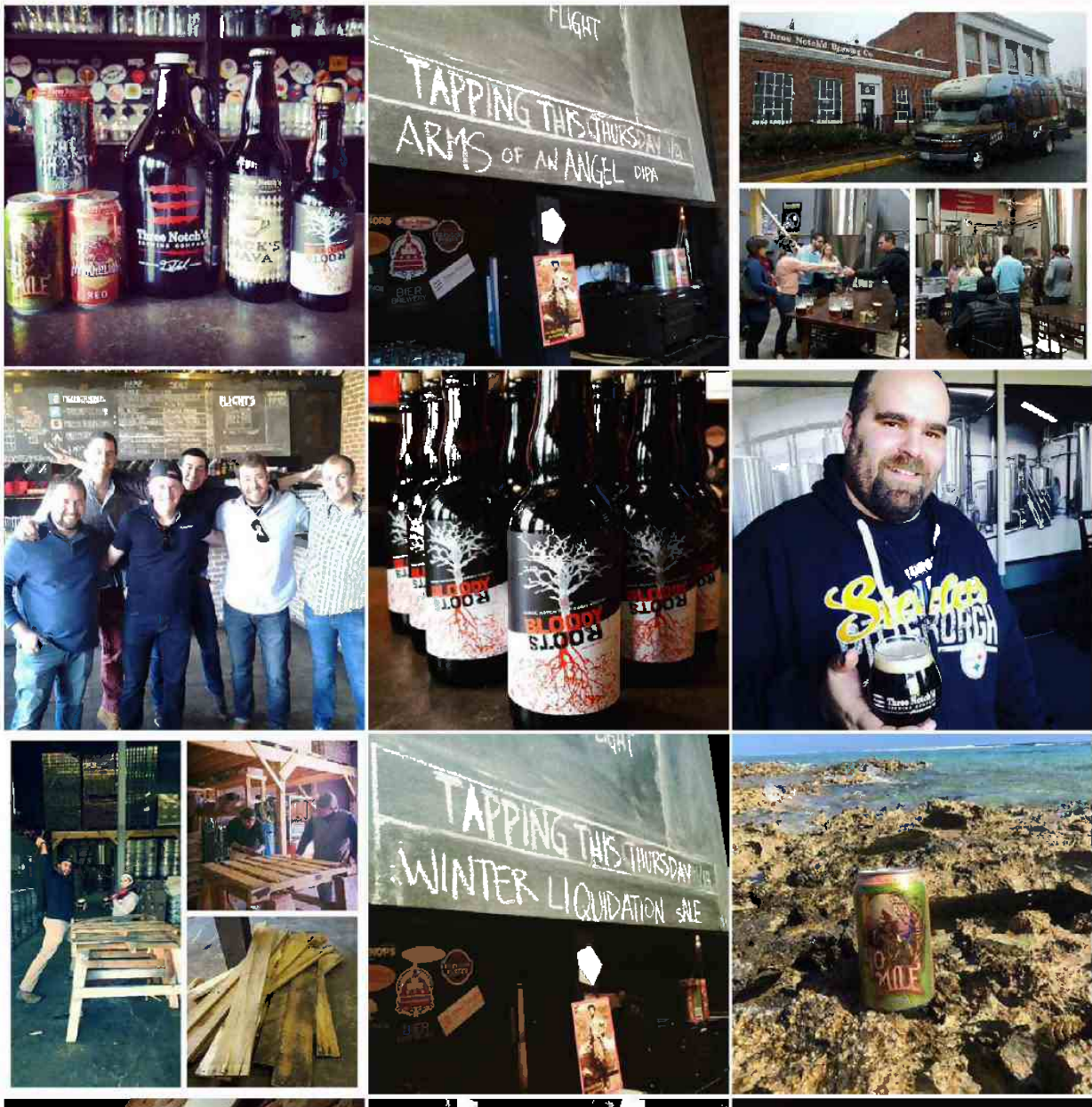


threenotchdbrewing

FOLLOW

Three Notch'd Brewing Co. ThreeNB.com

326 posts 2,075 followers 166 following



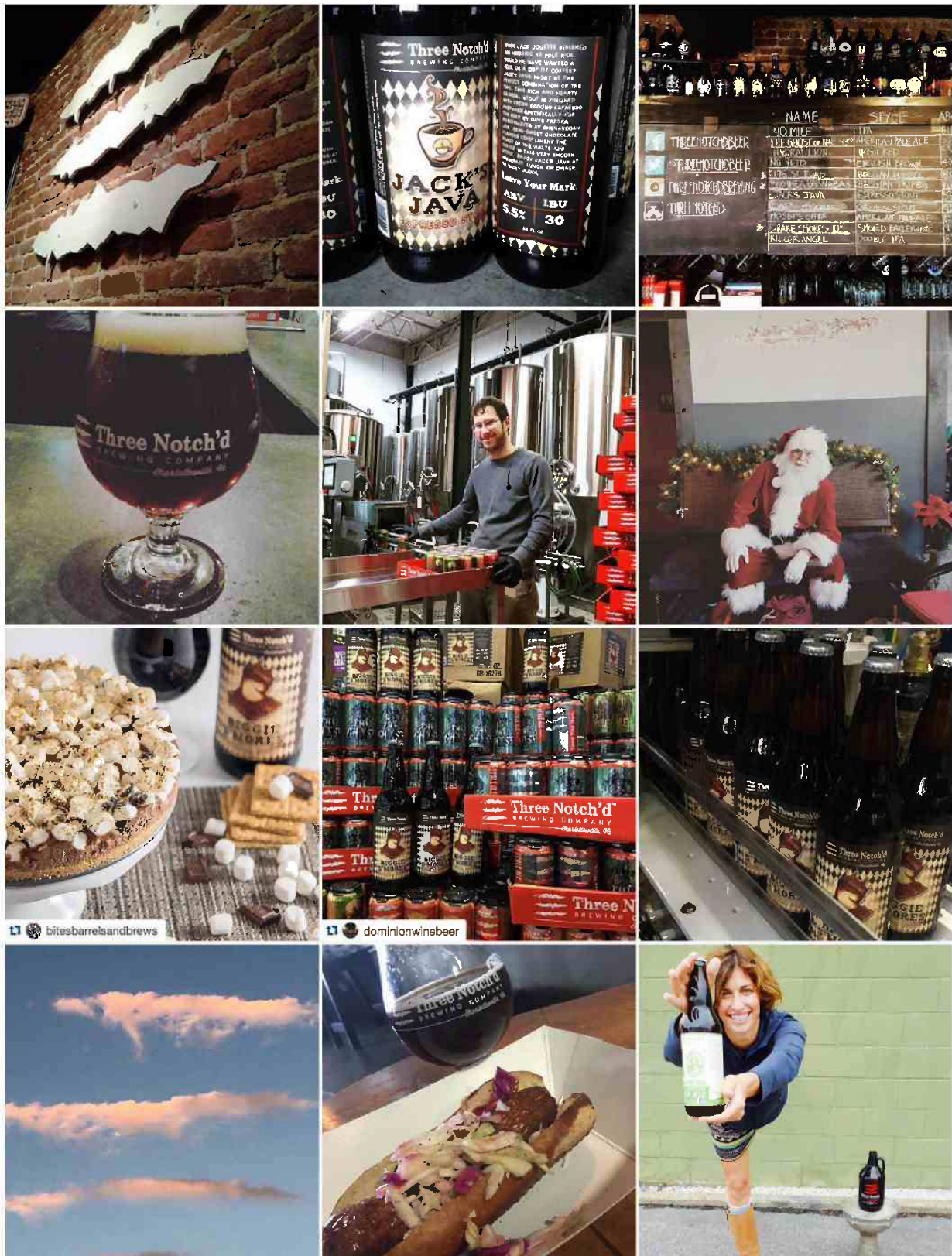
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1/28

MEC00062397

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



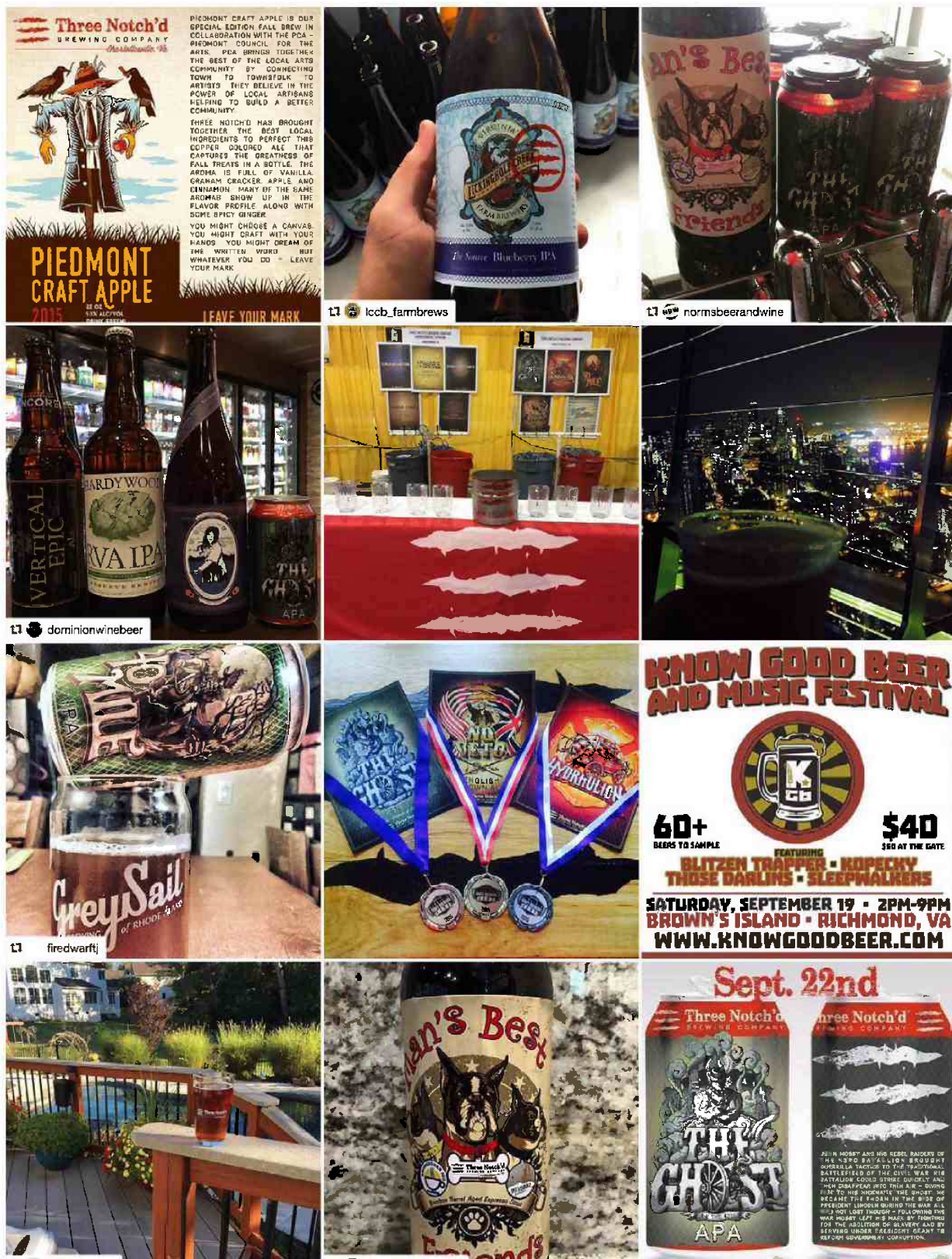
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2/28

MEC00062398

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



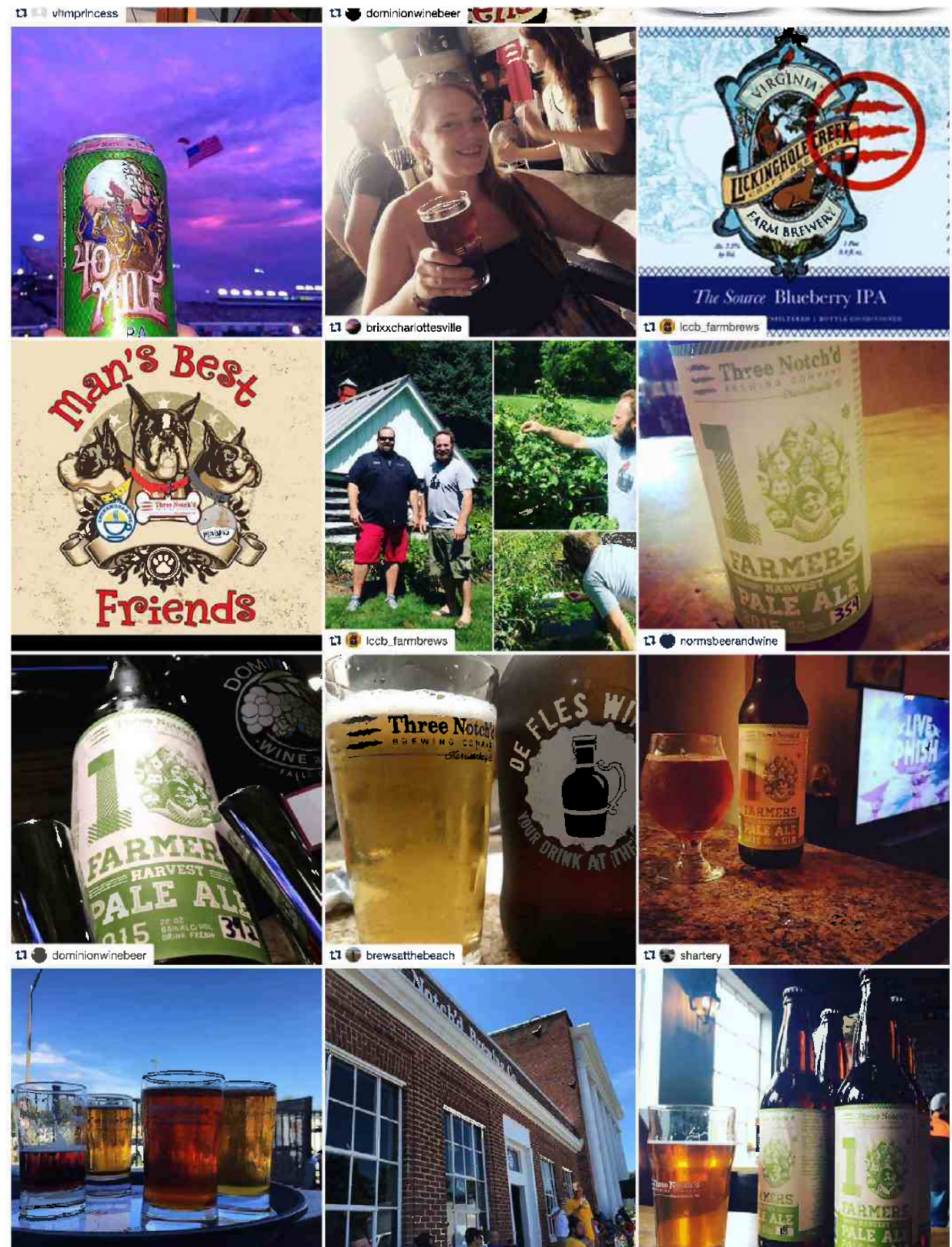
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3/28

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Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



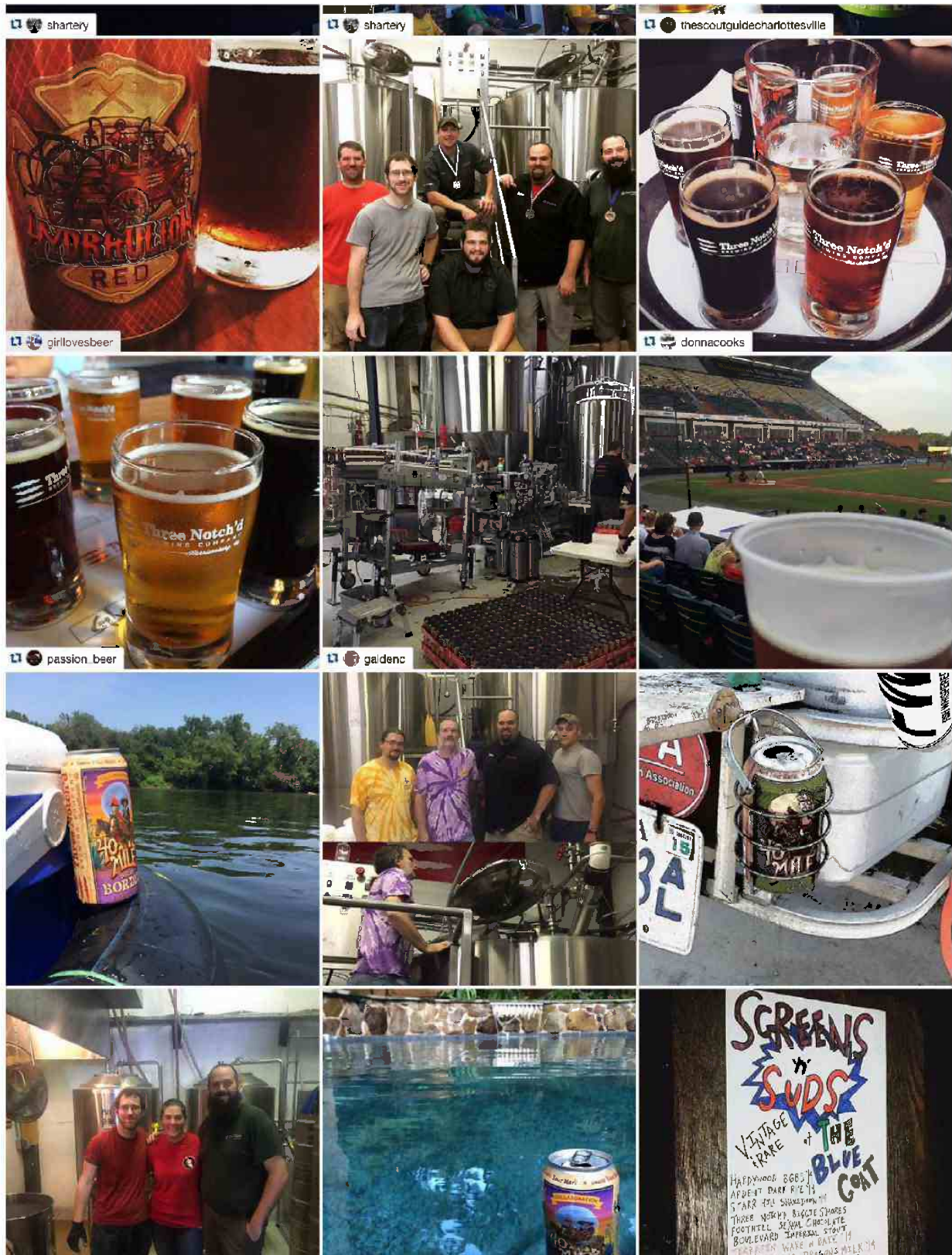
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4/28

MEC00062400

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



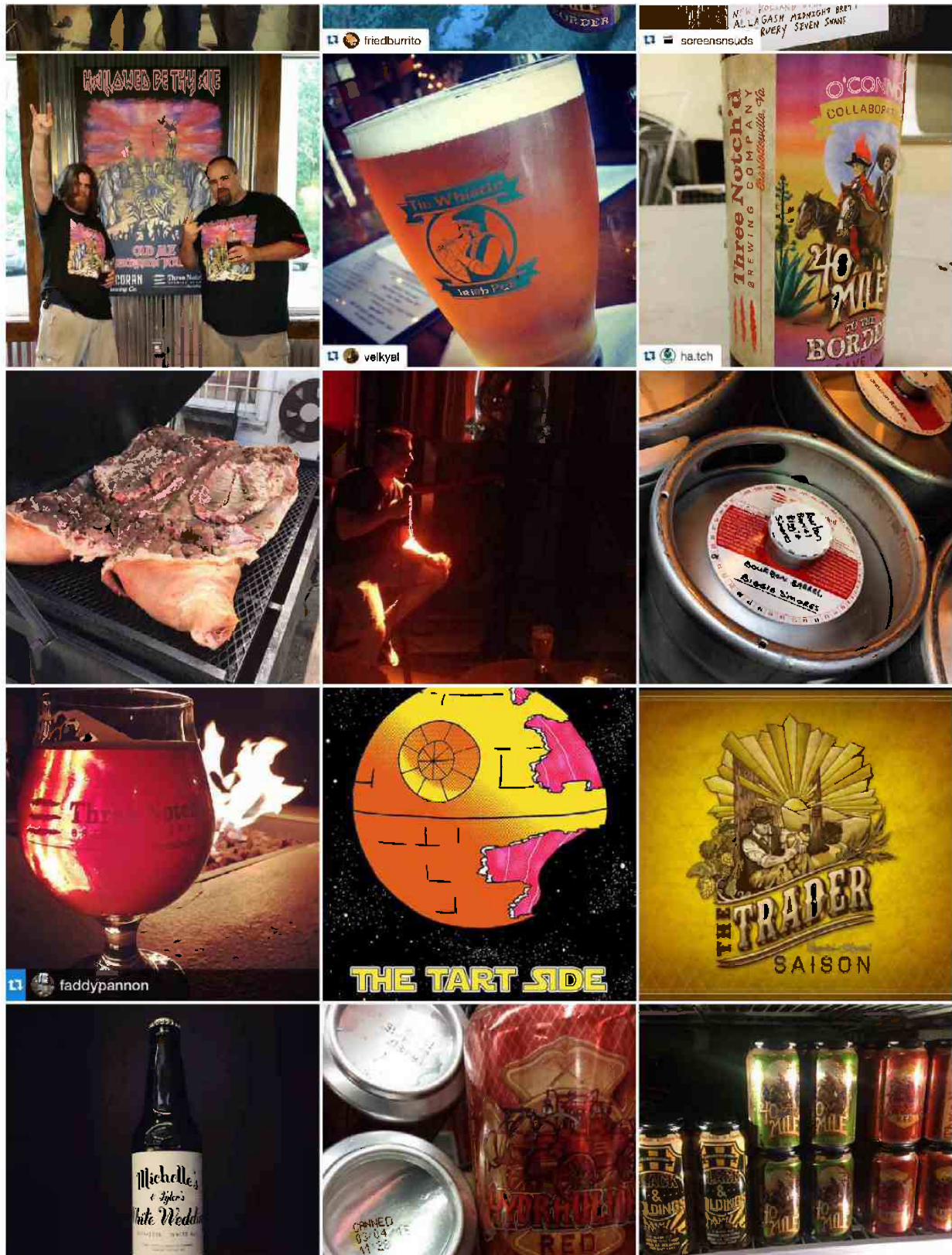
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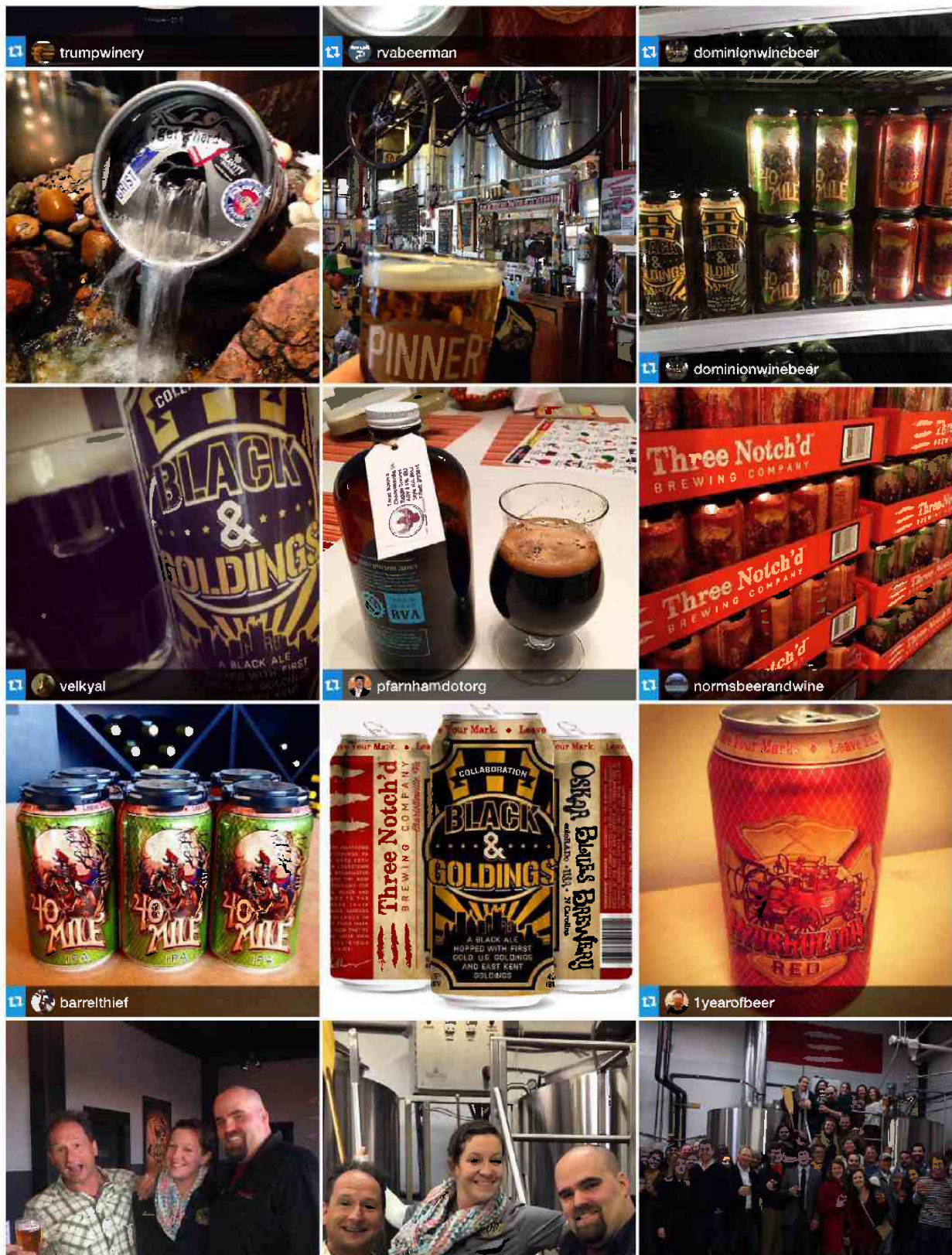
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6/28

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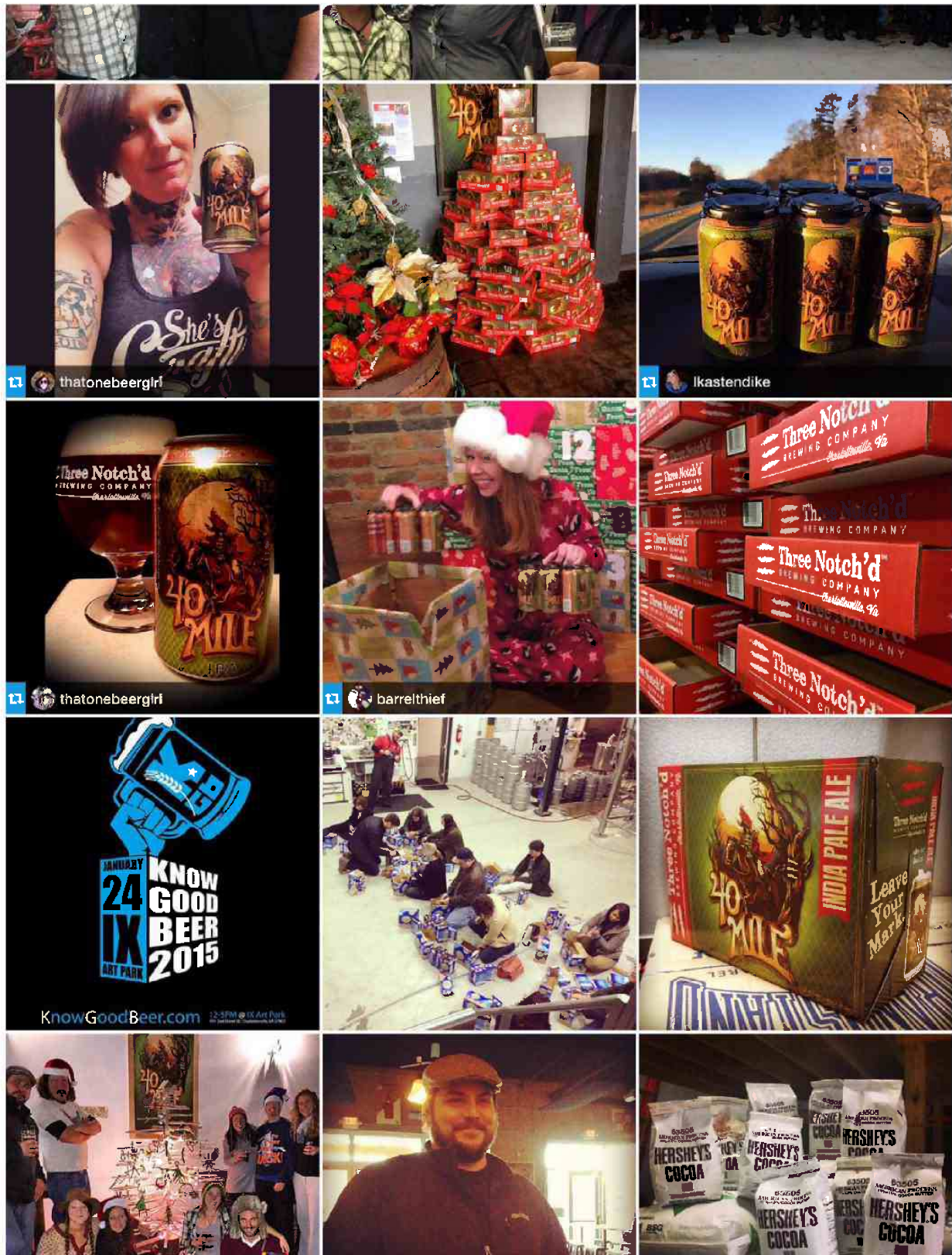
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7/28

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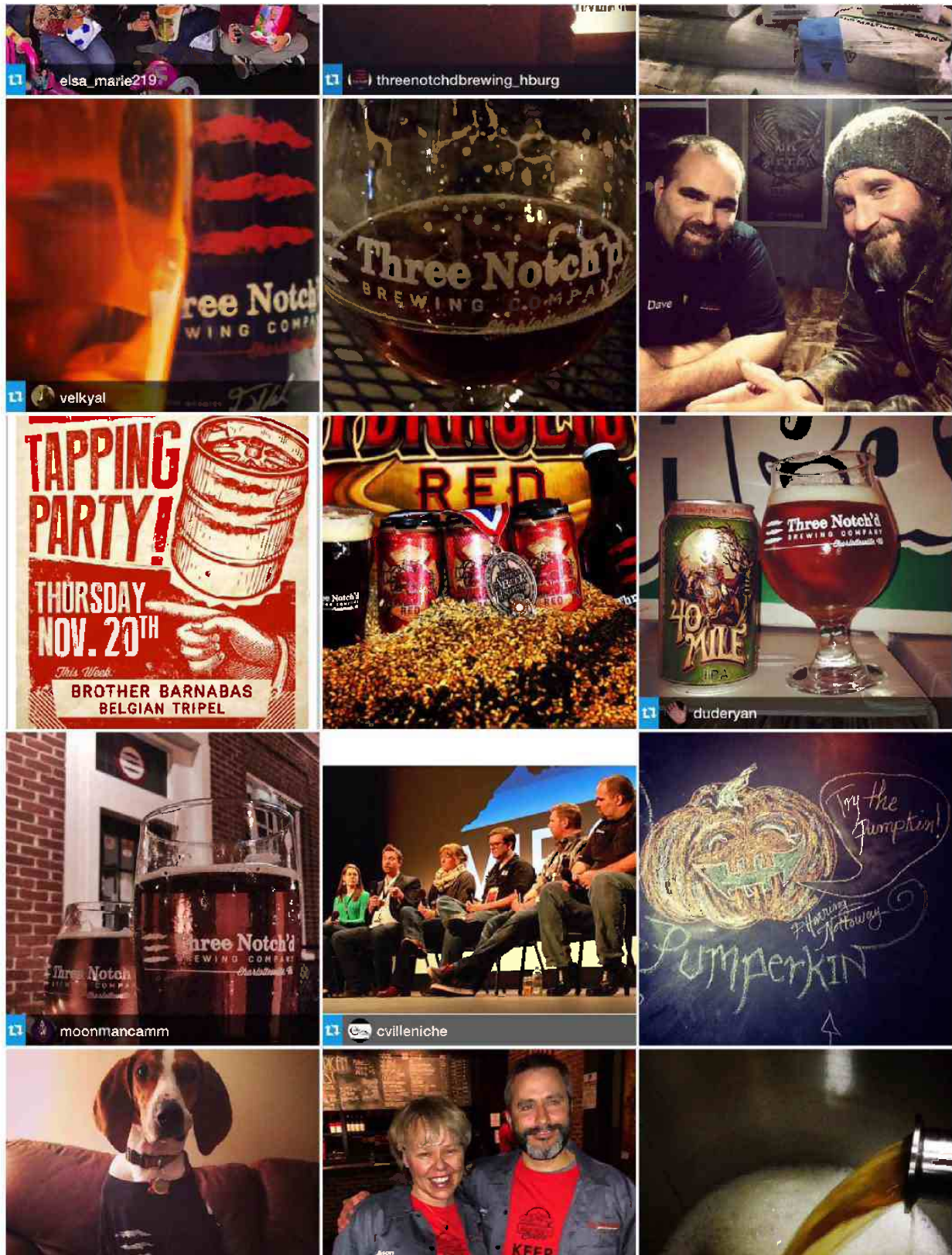
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8/28

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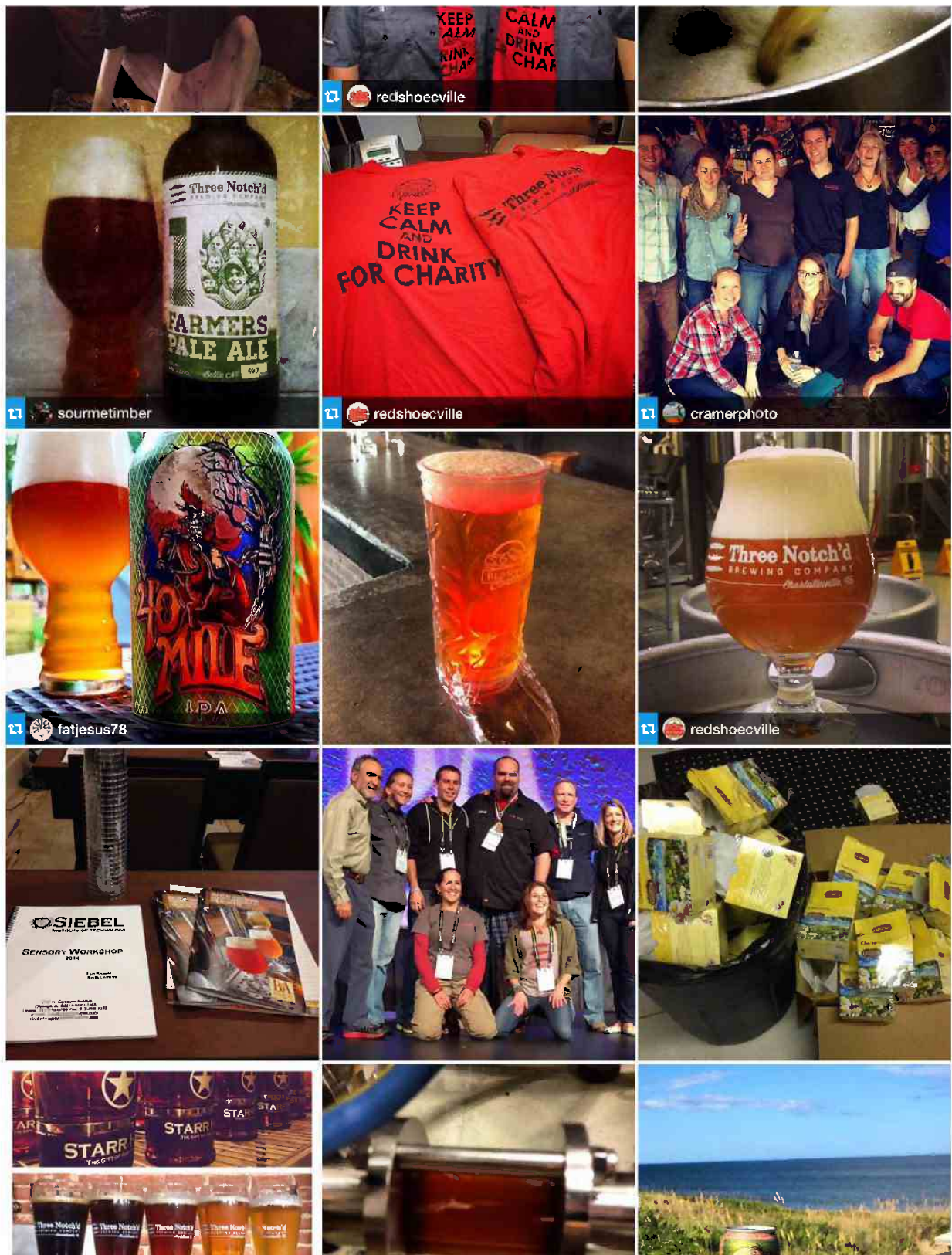
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9/28

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ilovecville



beerlyinfocus



thatonebeergirl



beerd_n3rd



katyburkey



wastenomorettime



nickelbutlerrr



<https://www.instagram.com/threenotchdbrewing/?hl=en>

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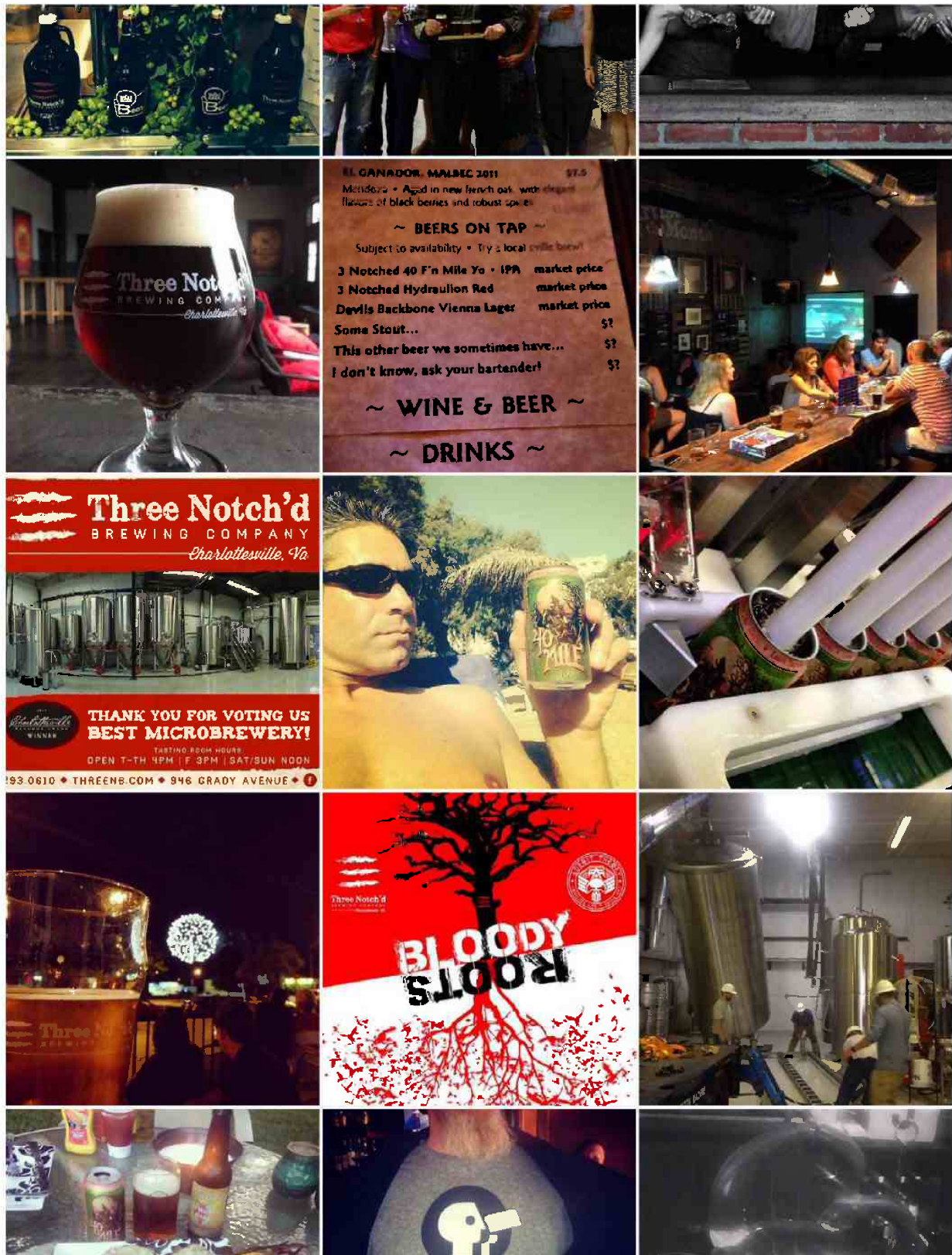
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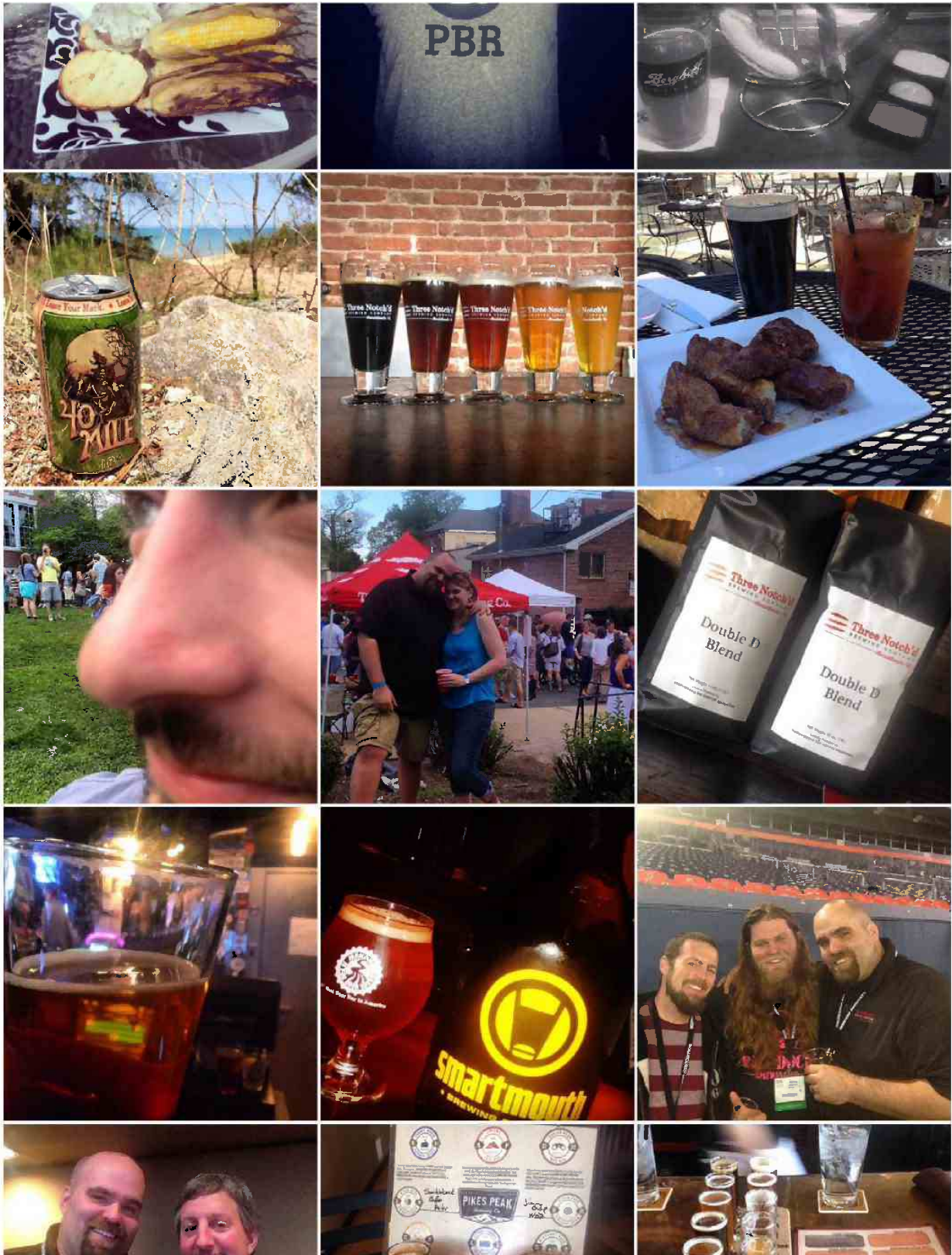
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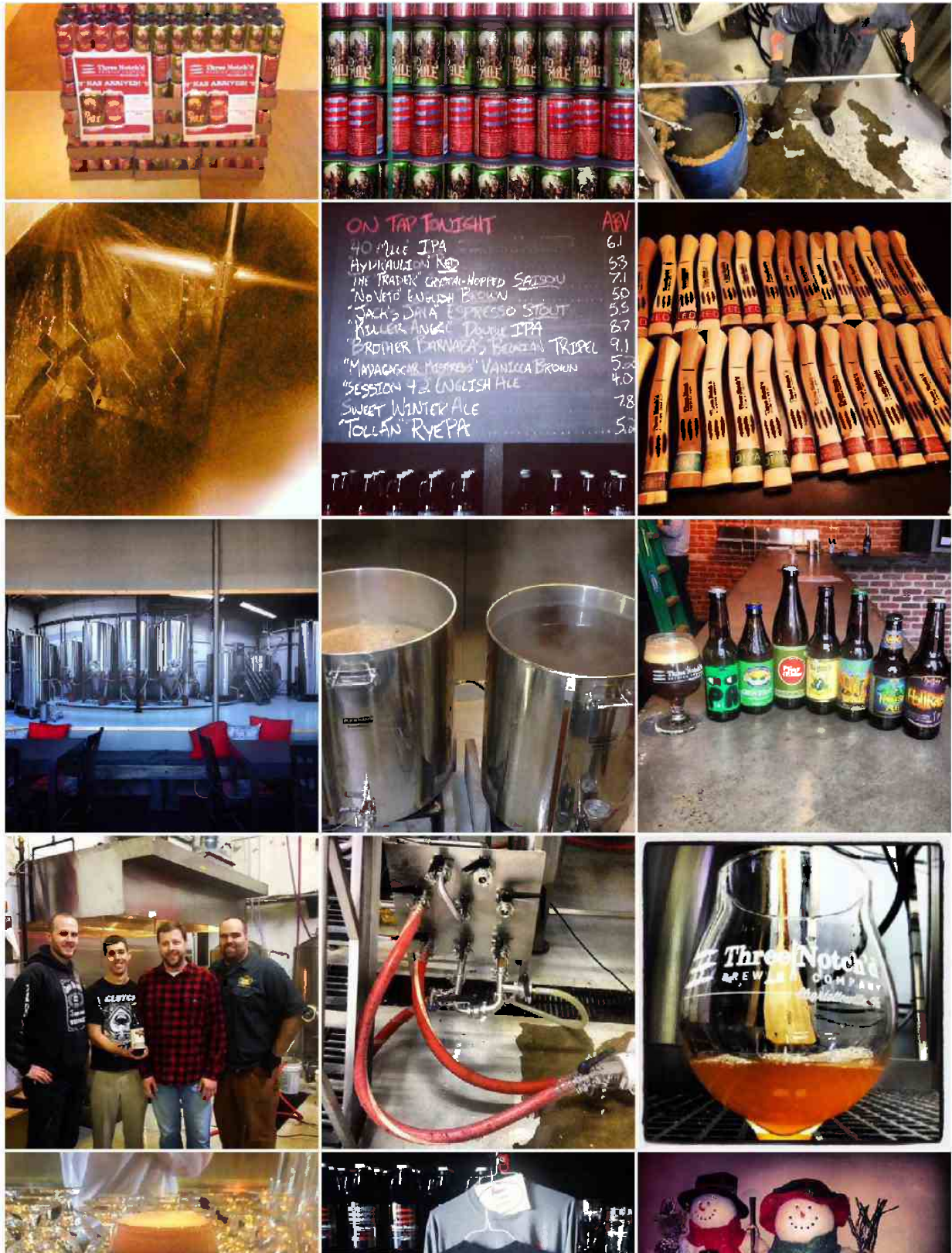
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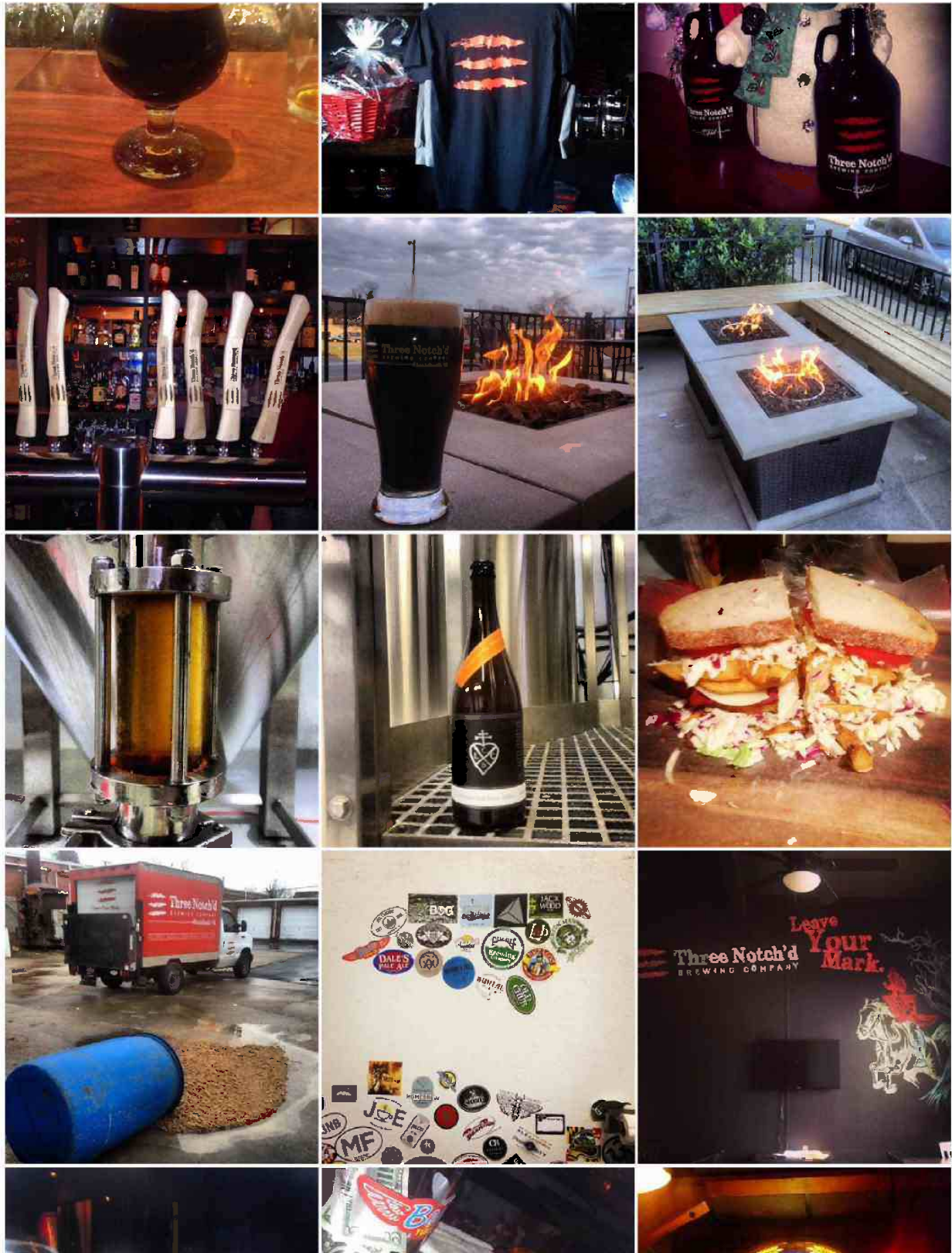
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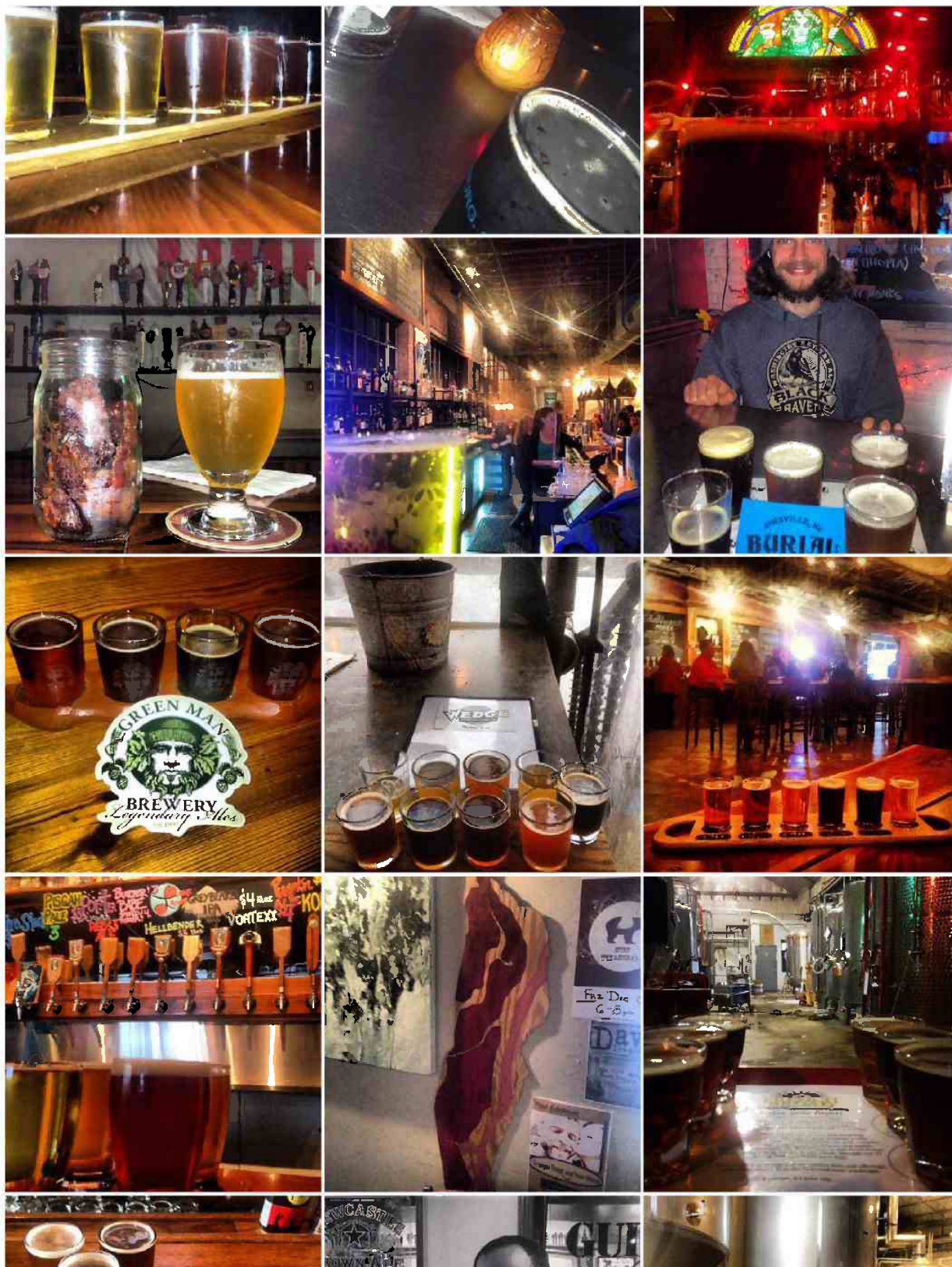
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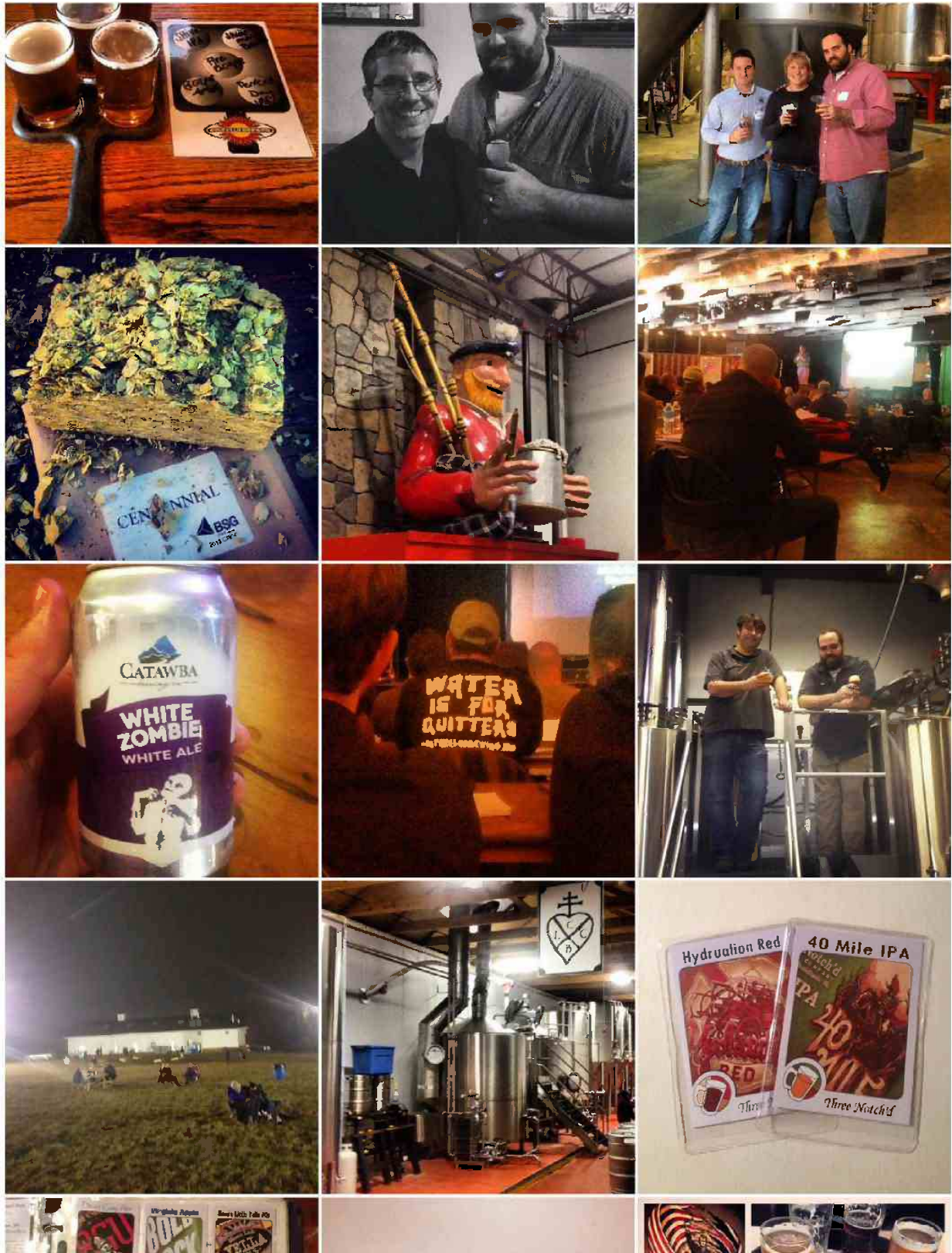
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MEC00062414

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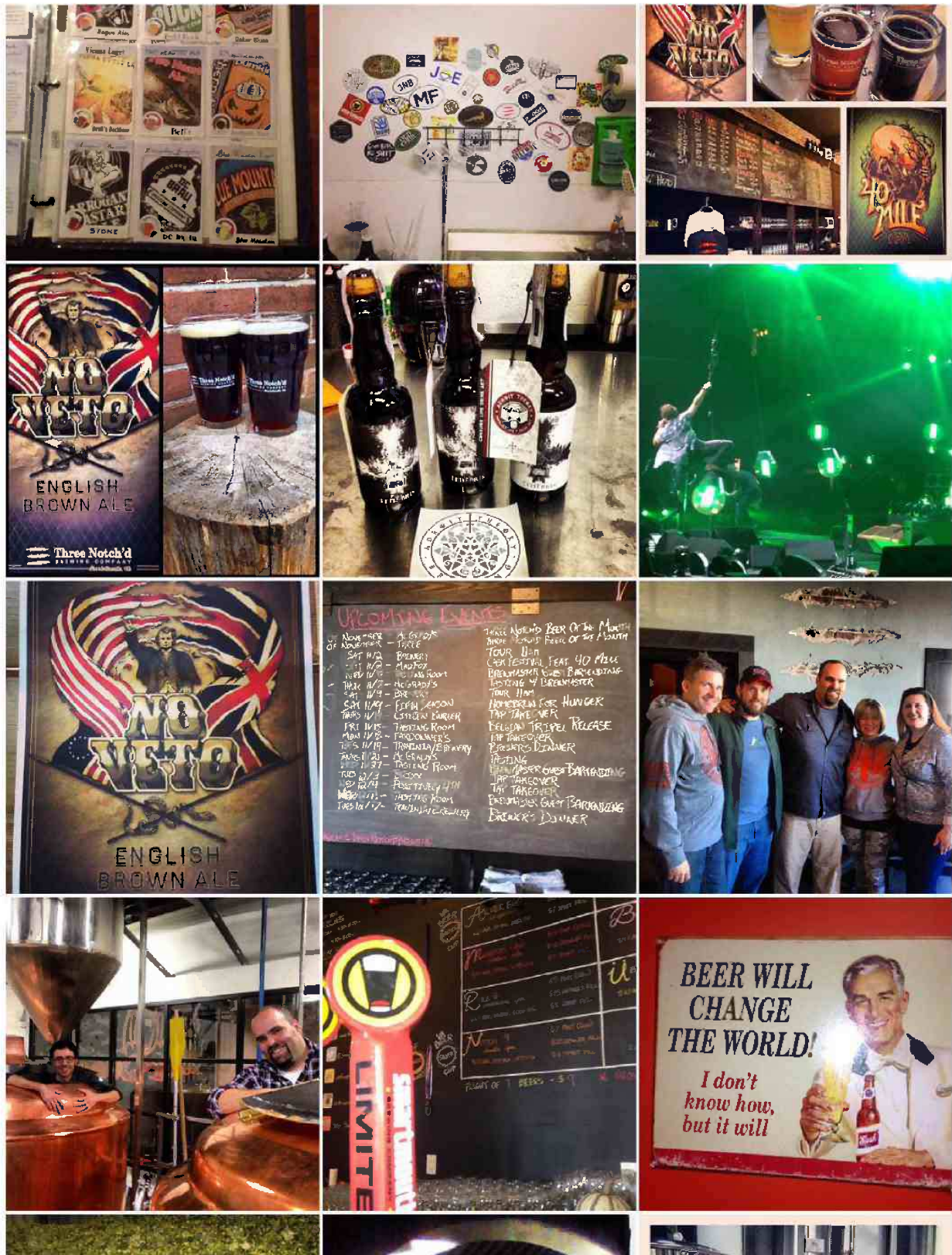
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19/28

MEC00062415

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



<https://www.instagram.com/threenotchdbrewing/?hl=en>

20/28

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1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



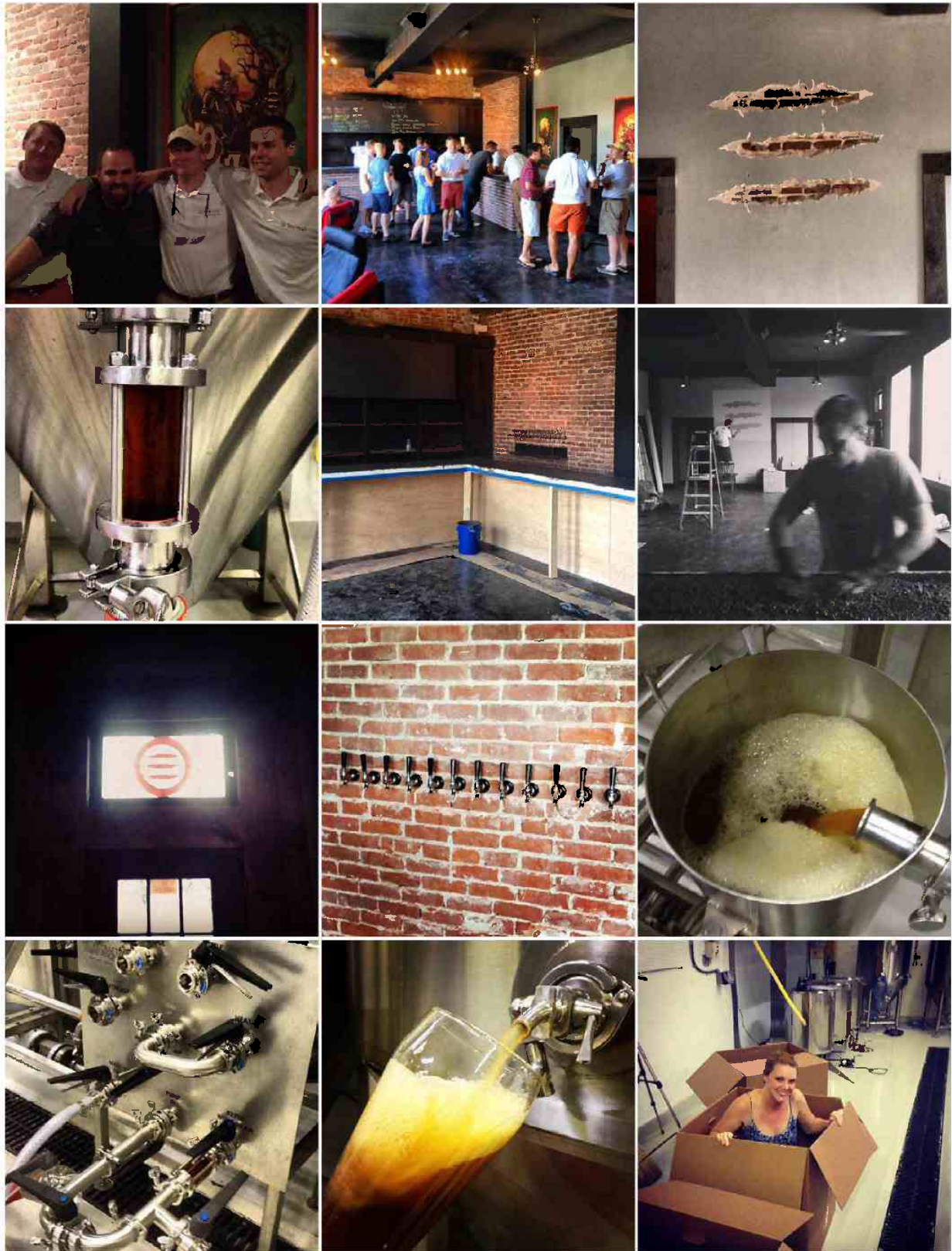
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22/28

MEC00062418

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



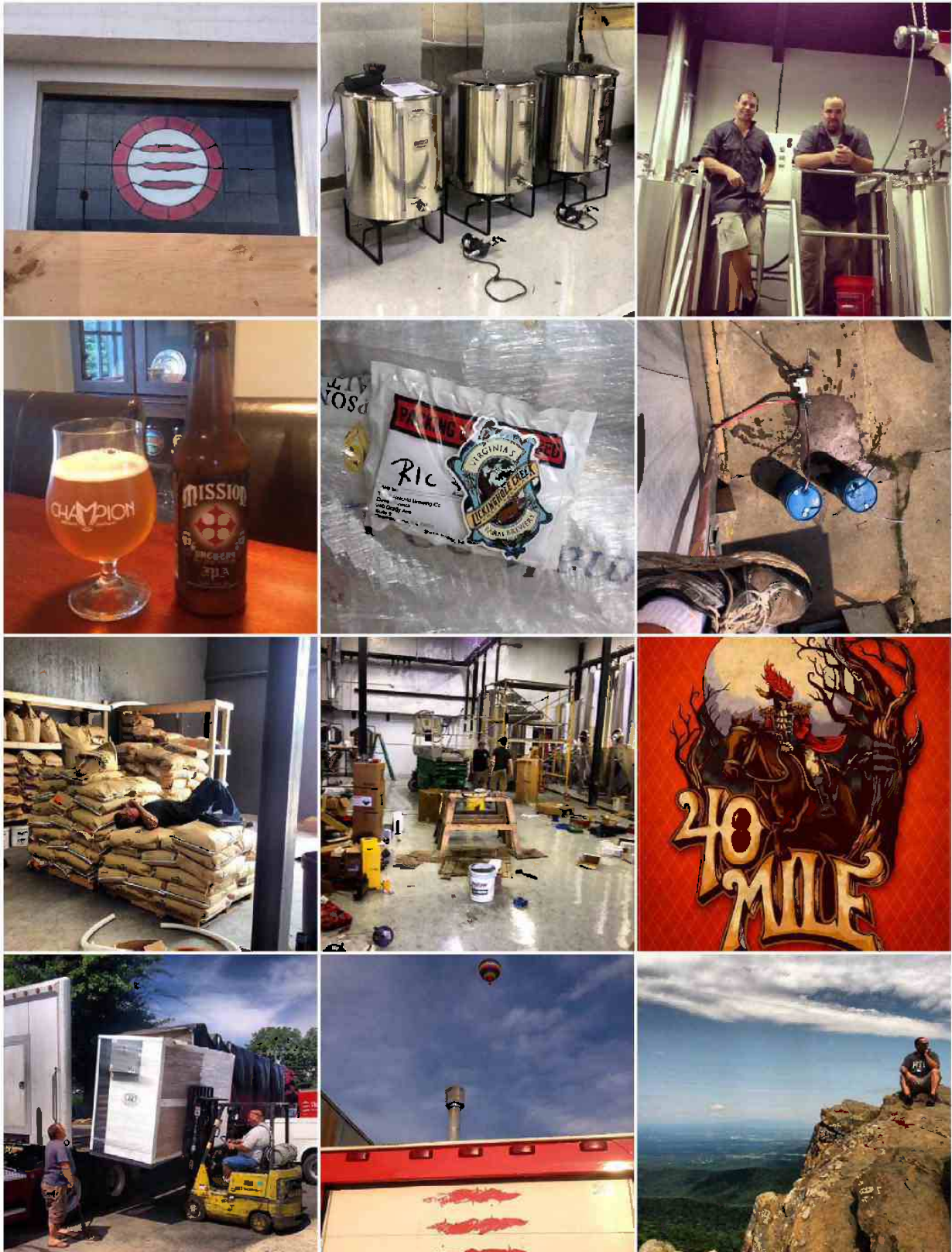
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23/28

MEC00062419

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



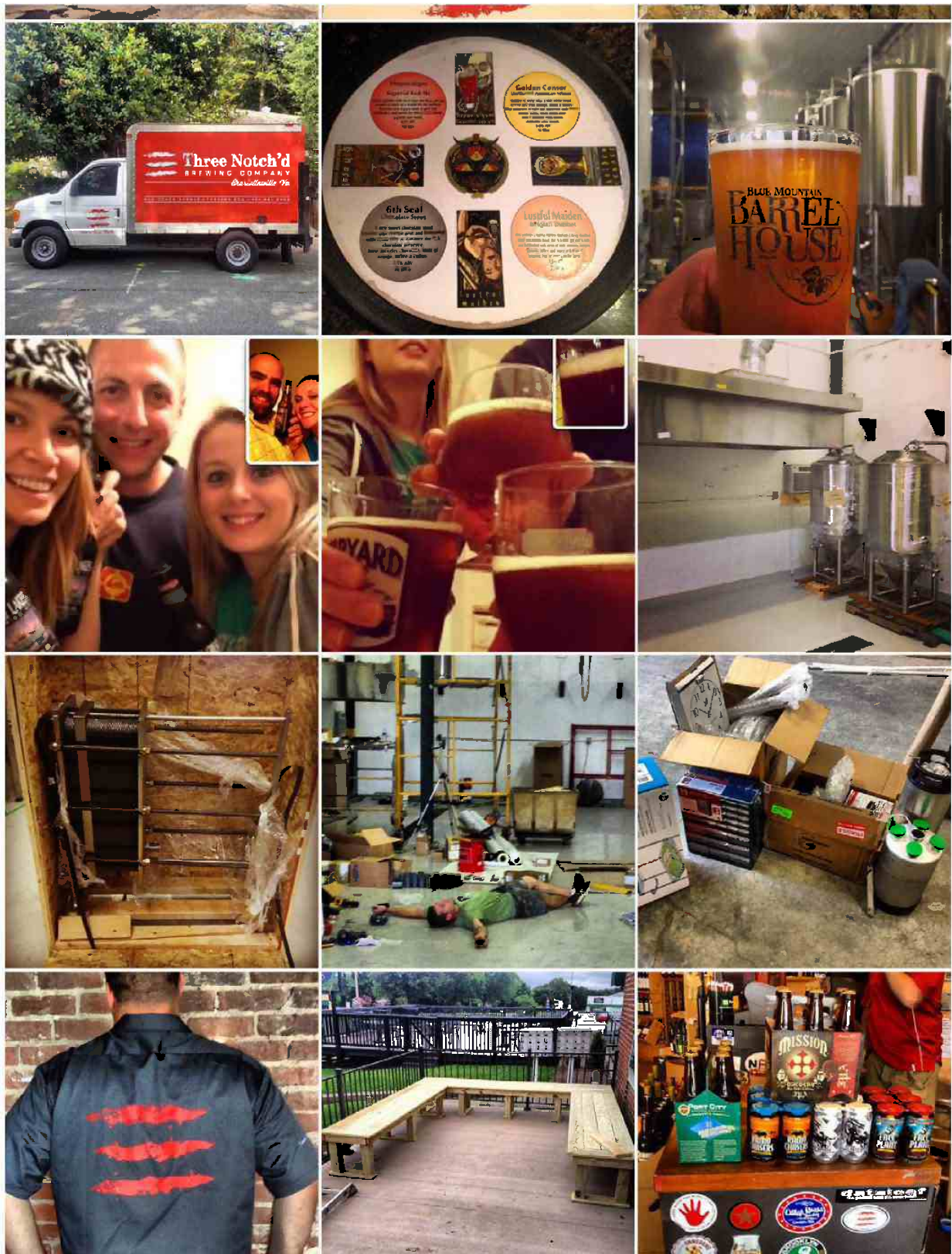
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24/28

MEC00062420

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



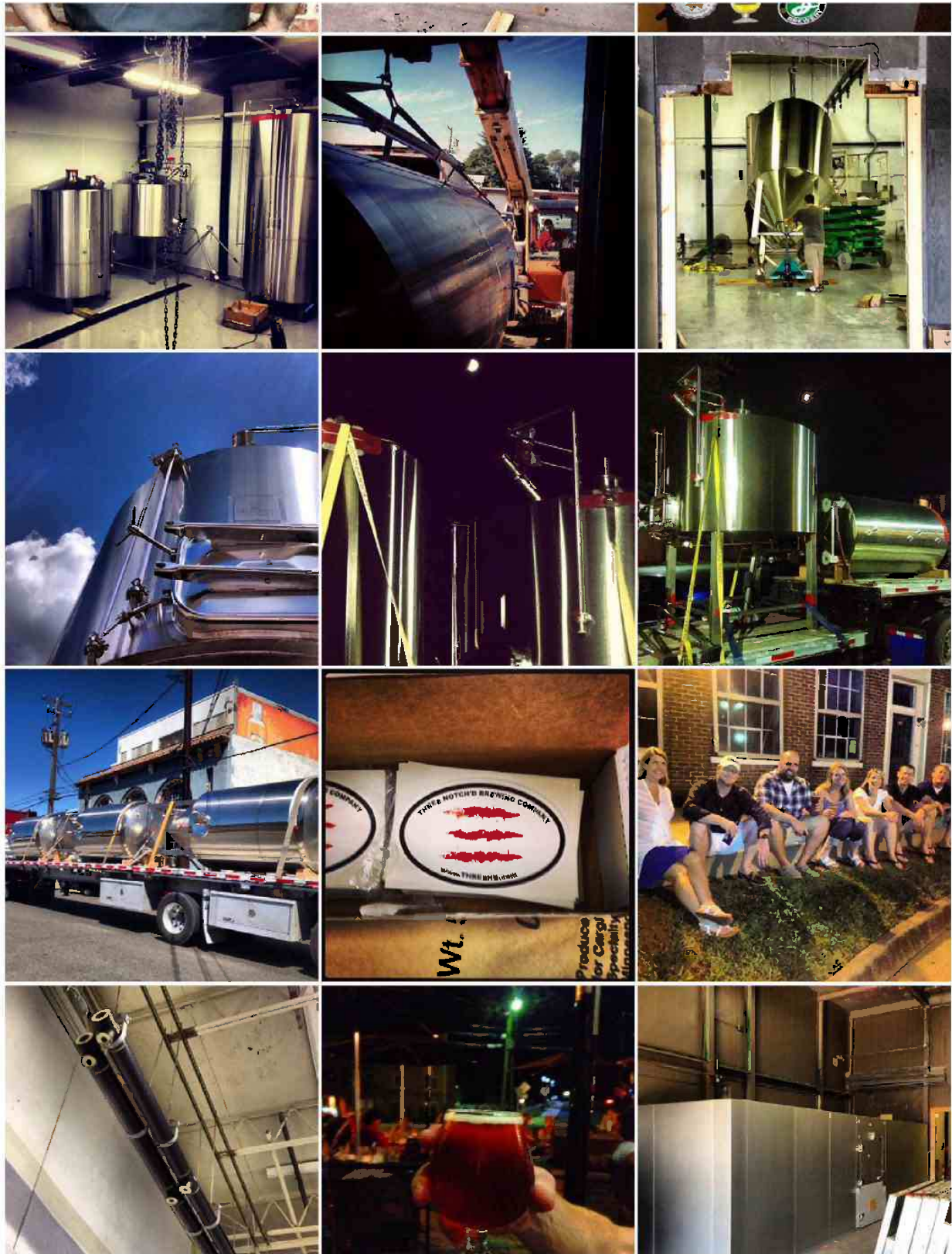
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25/28

MEC00062421

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



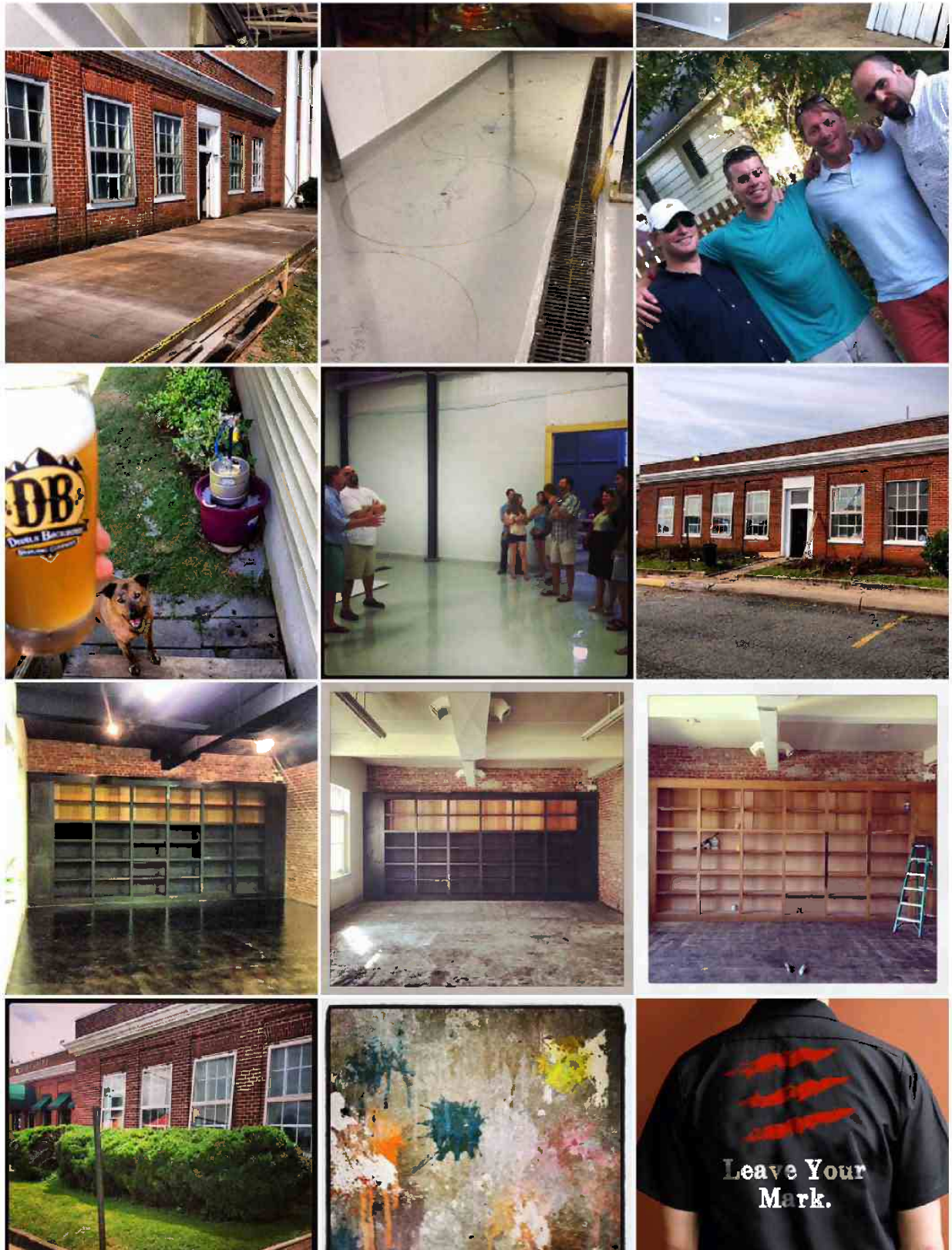
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26/28

MEC00062422

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



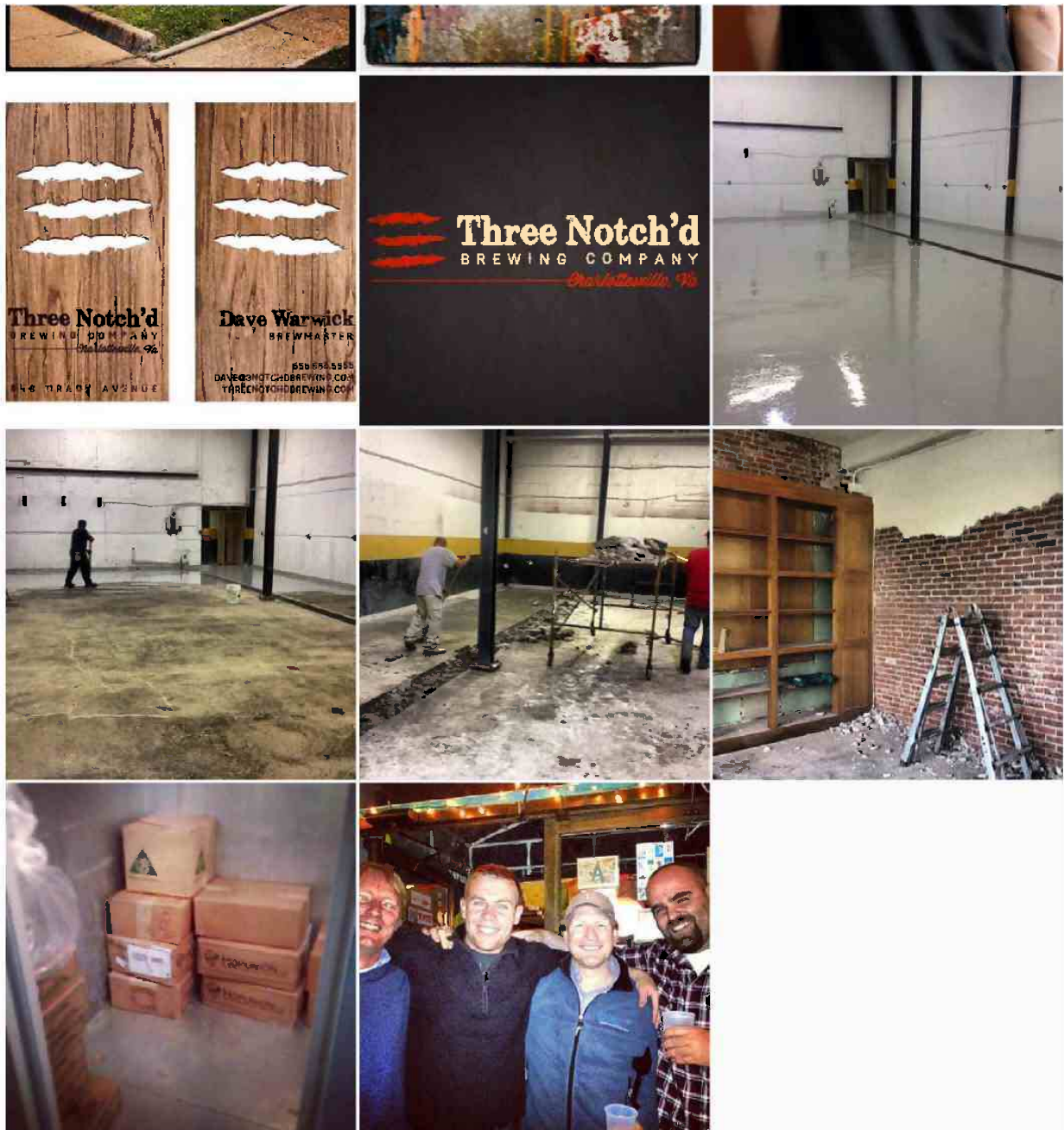
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27/28

MEC00062423

1/20/2016

Three Notch'd Brewing Co. (@threenotchdbrewing) • Instagram photos and videos



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[PRIVACY](#) [TERMS](#) [LANGUAGE](#)

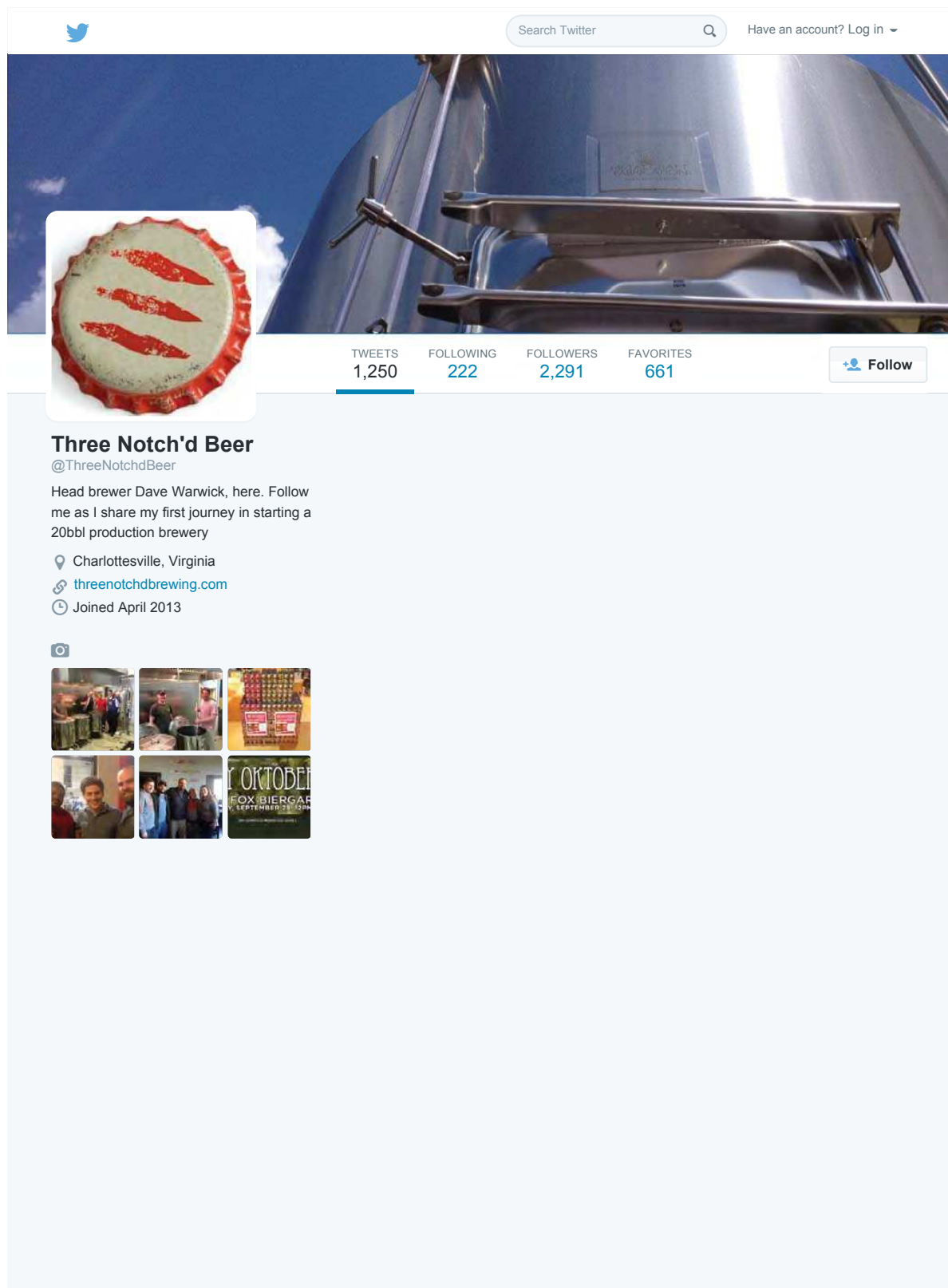
© 2016 INSTAGRAM

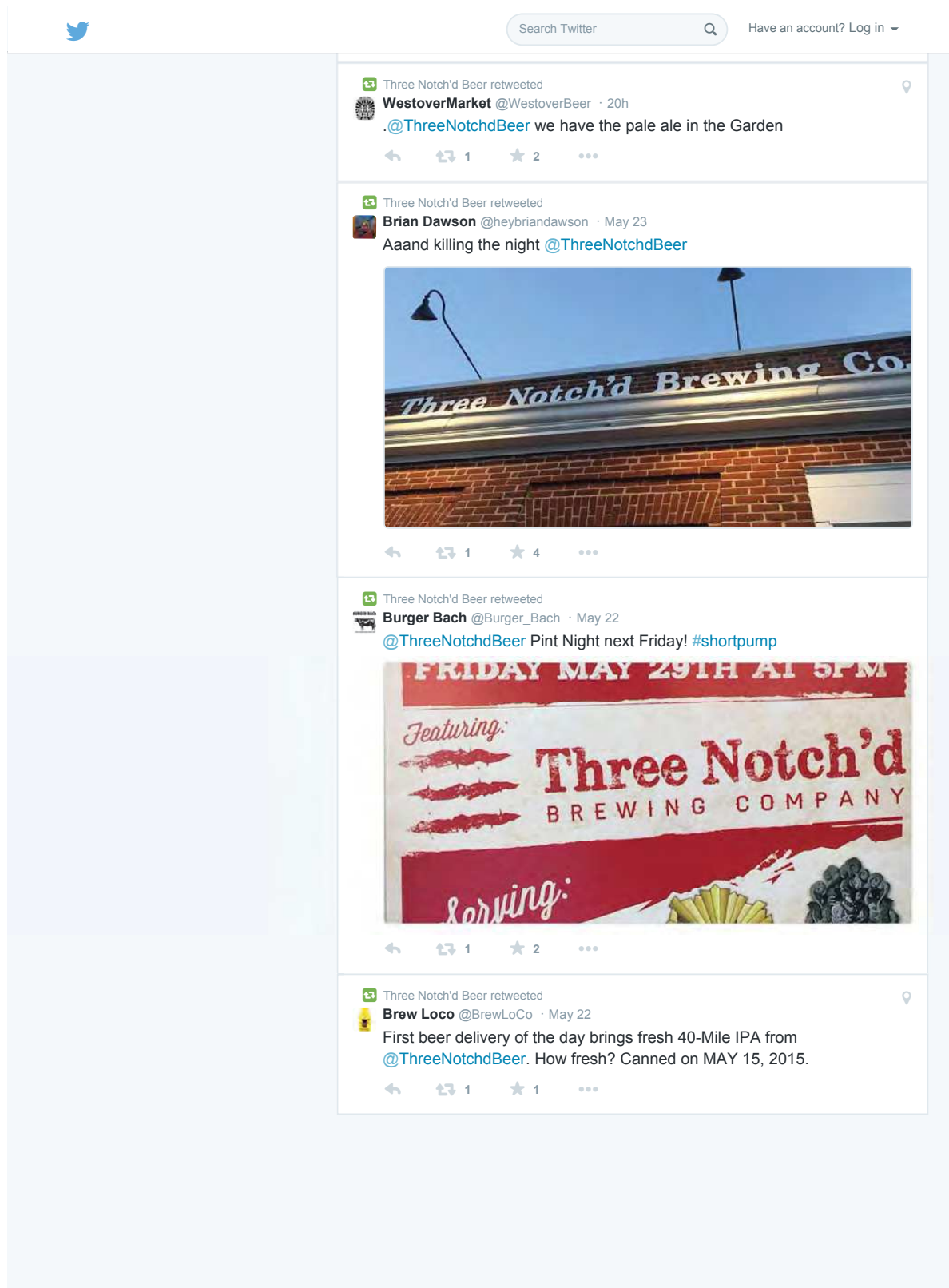
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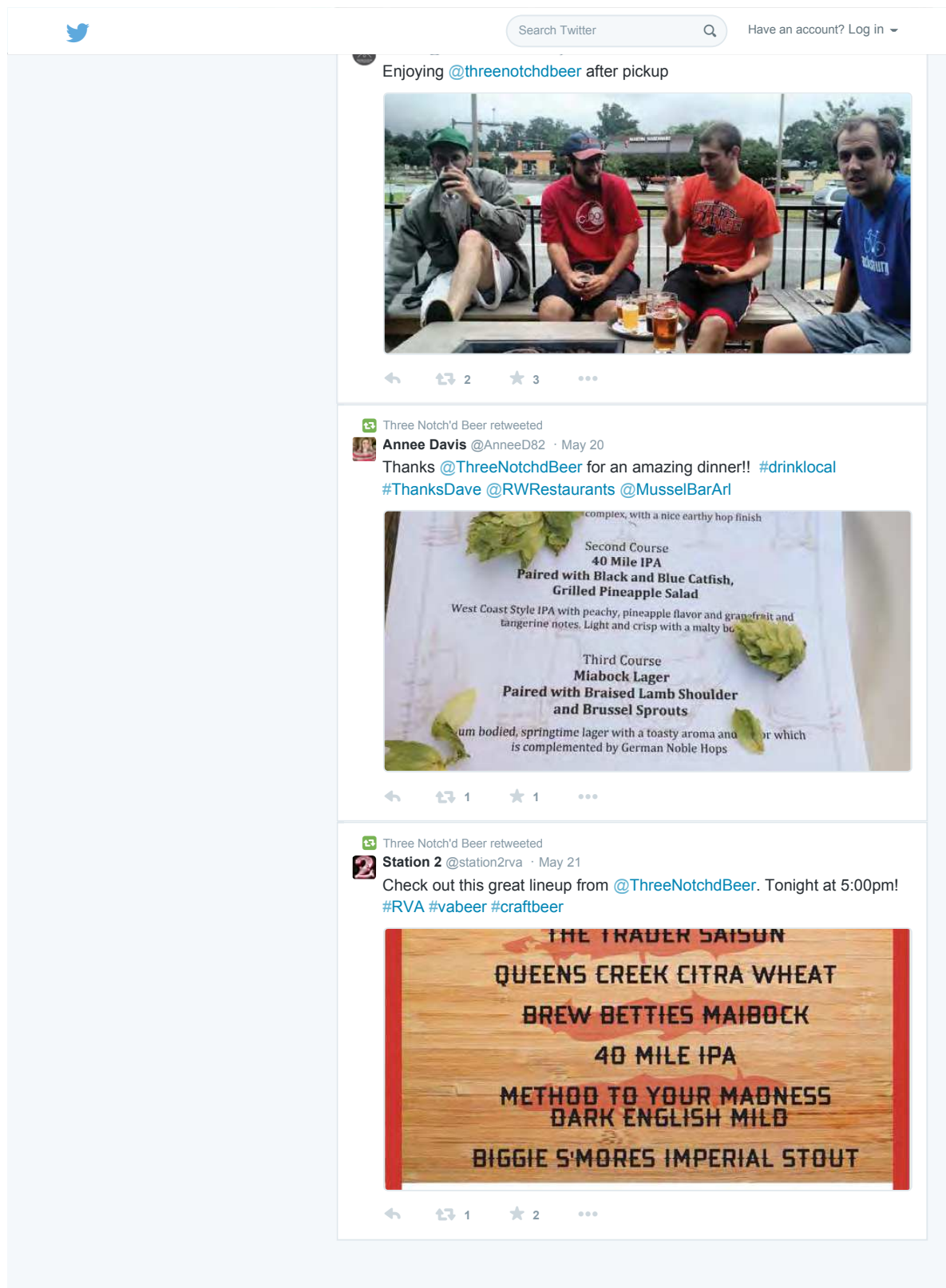
28/28

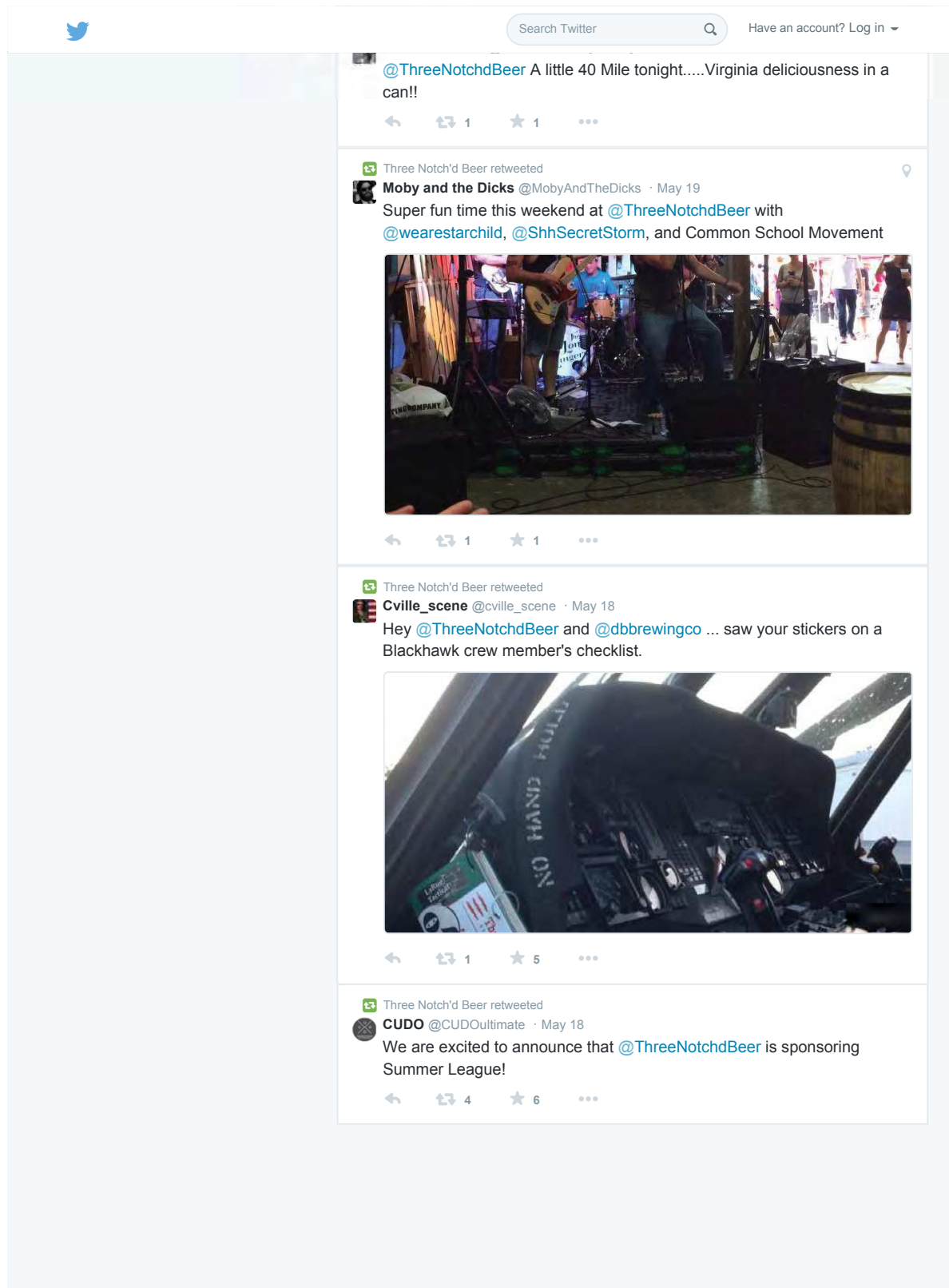
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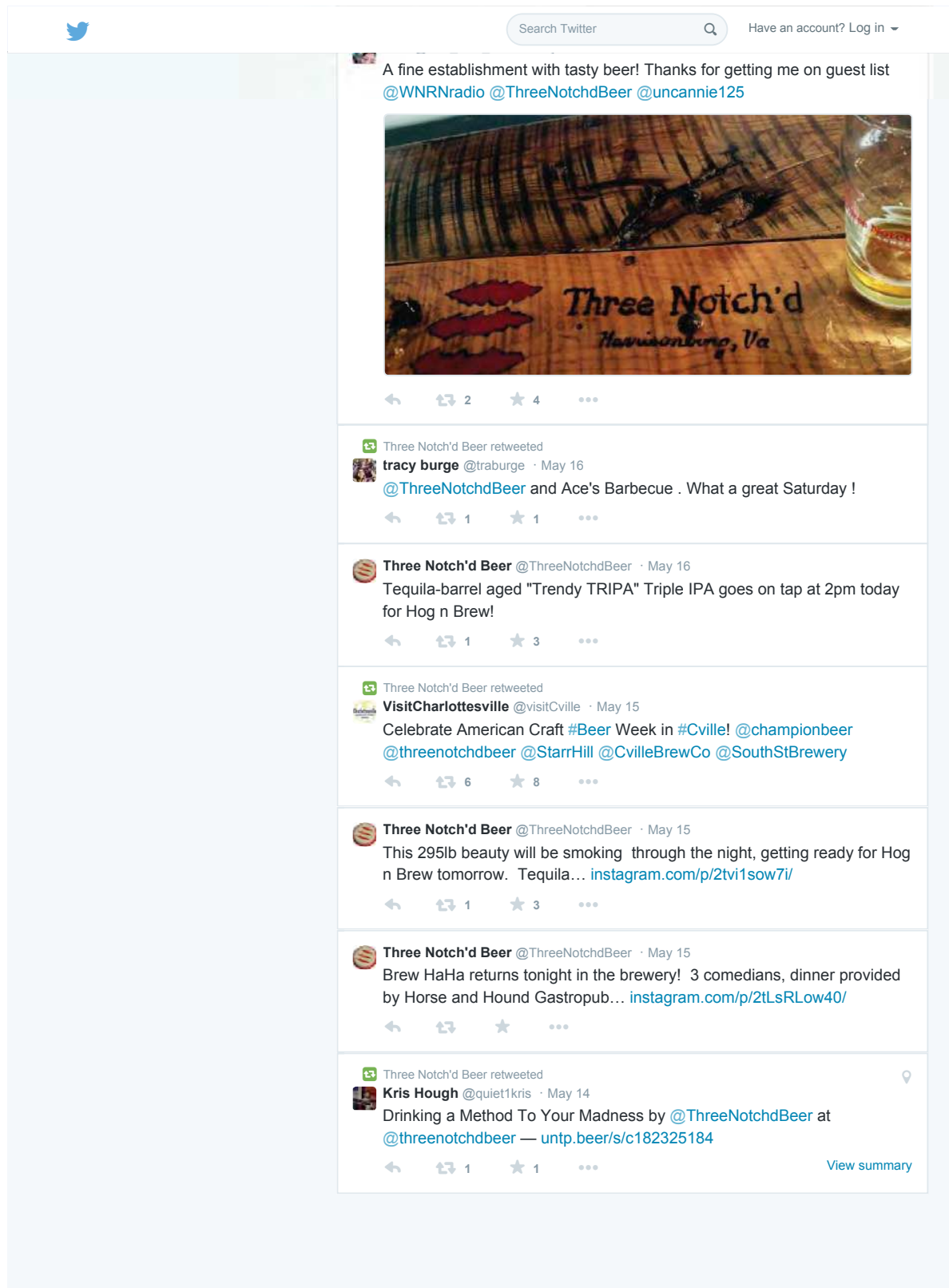
EXHIBIT 11

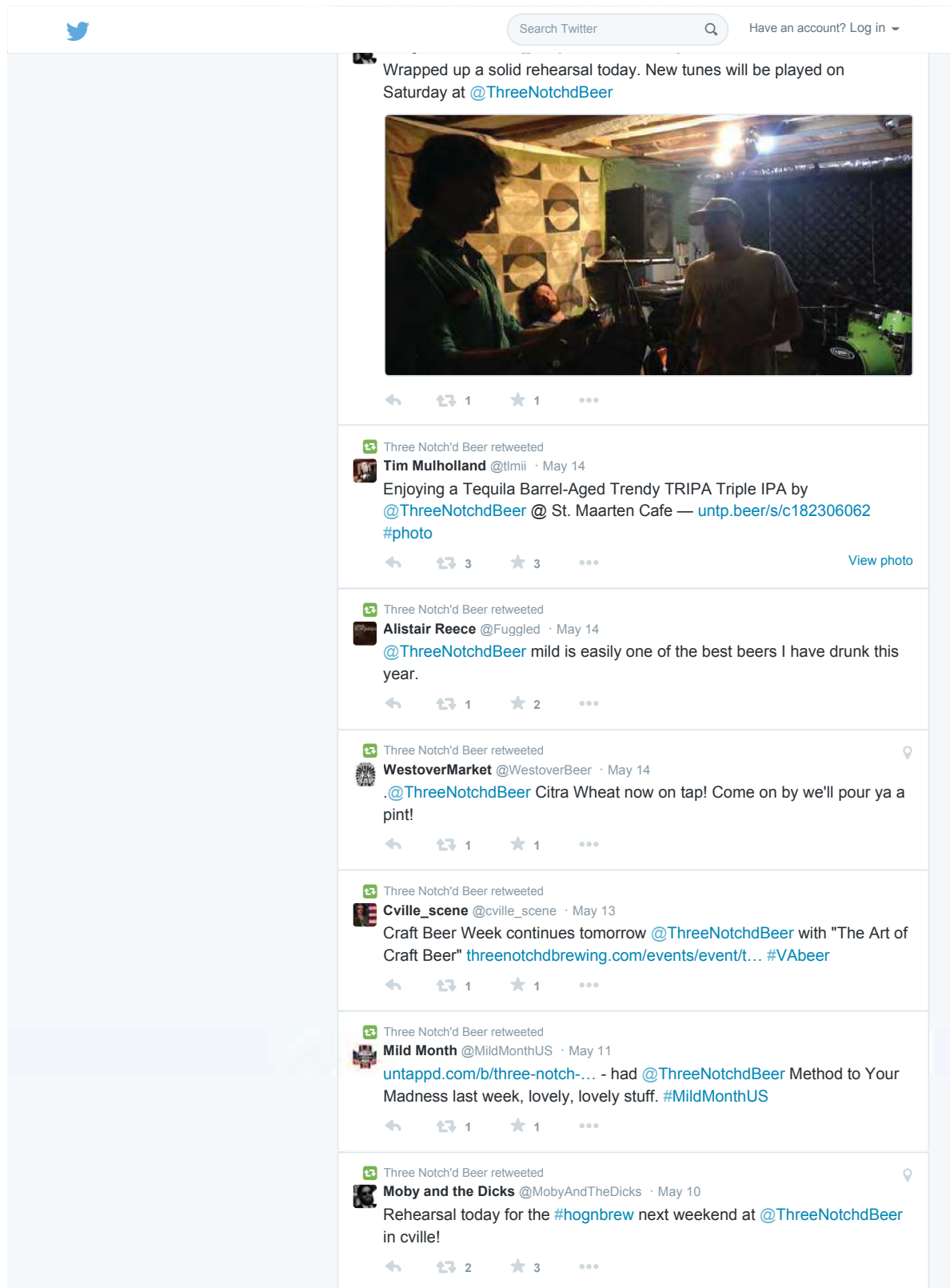


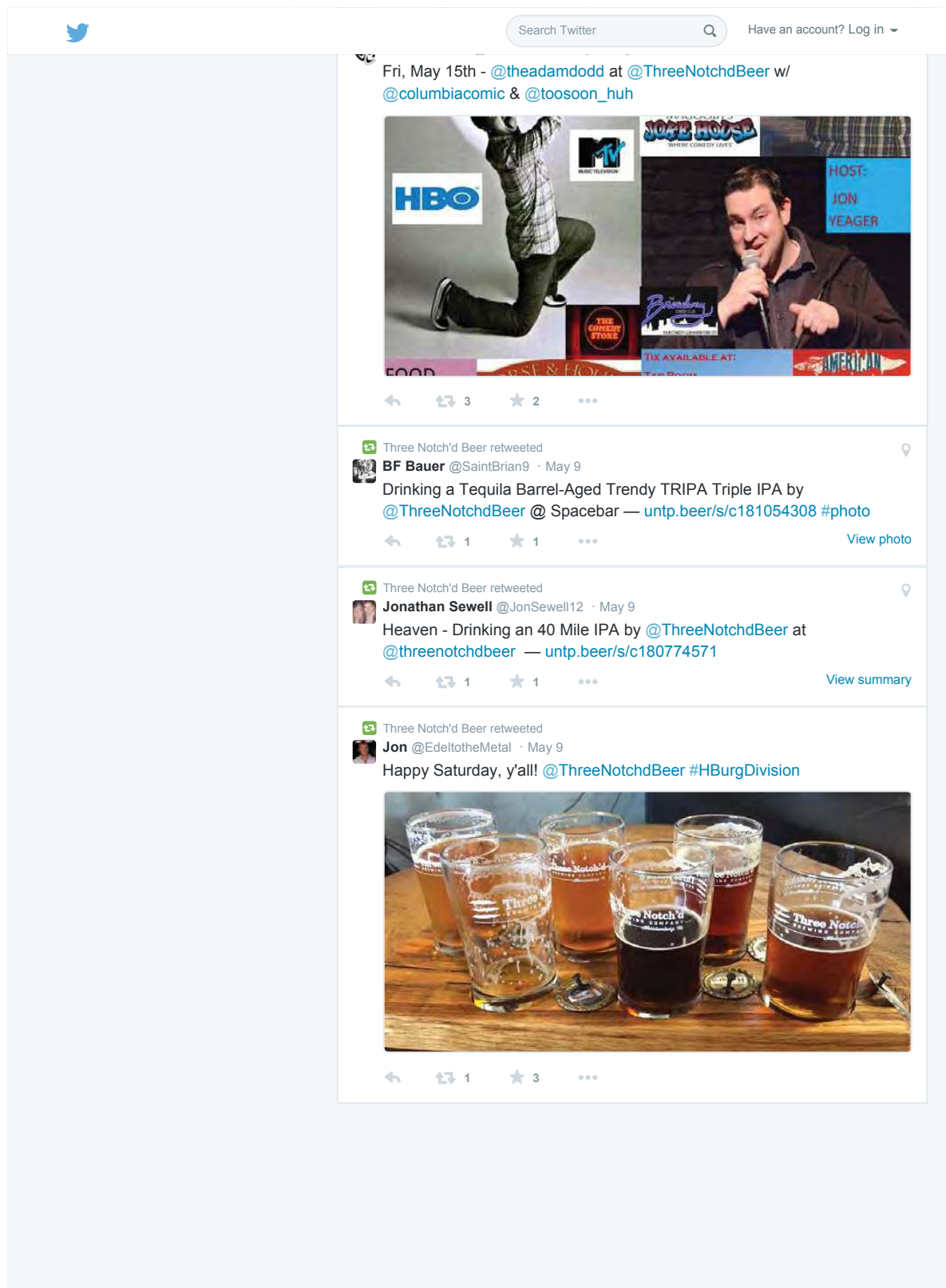


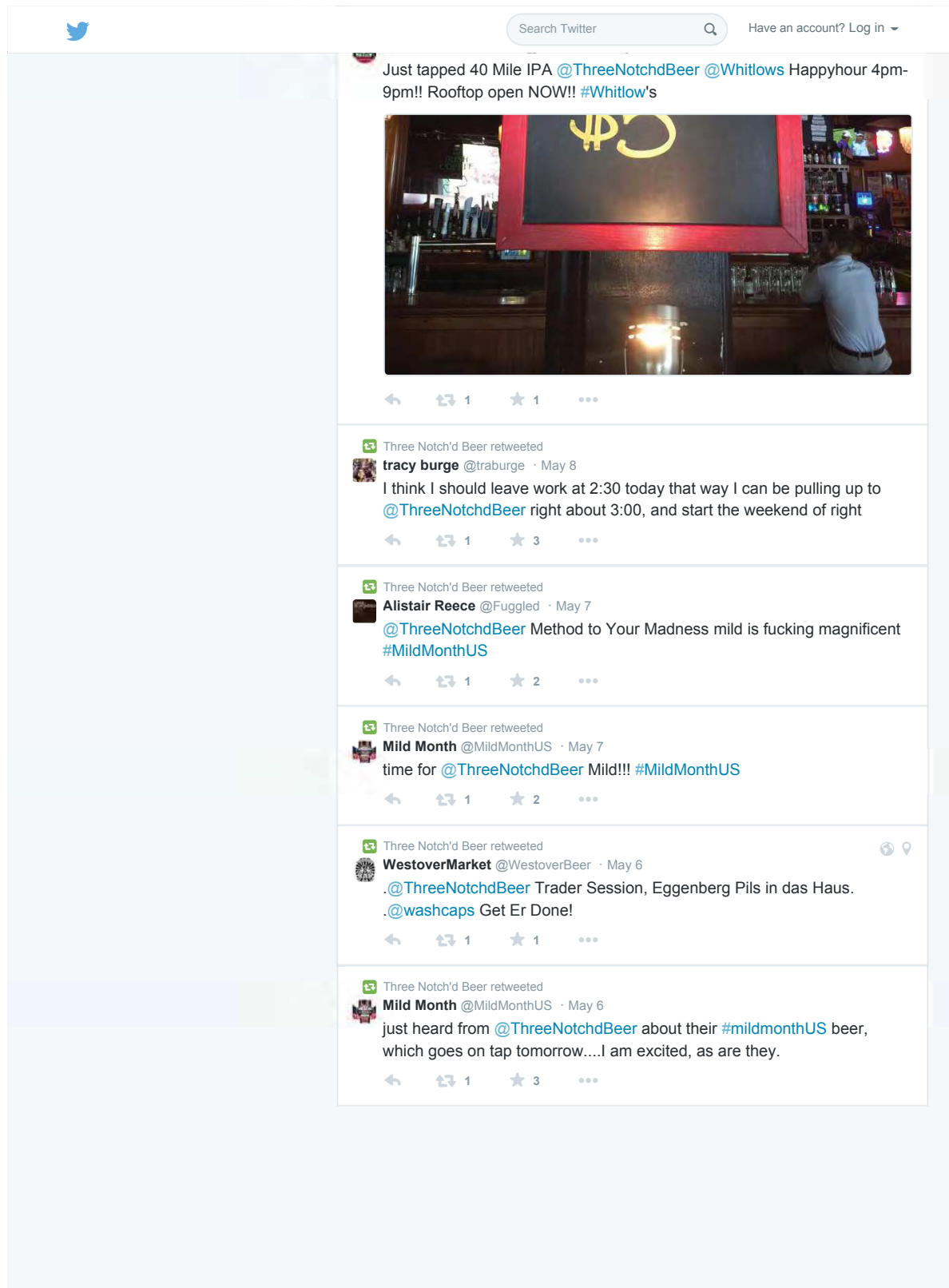


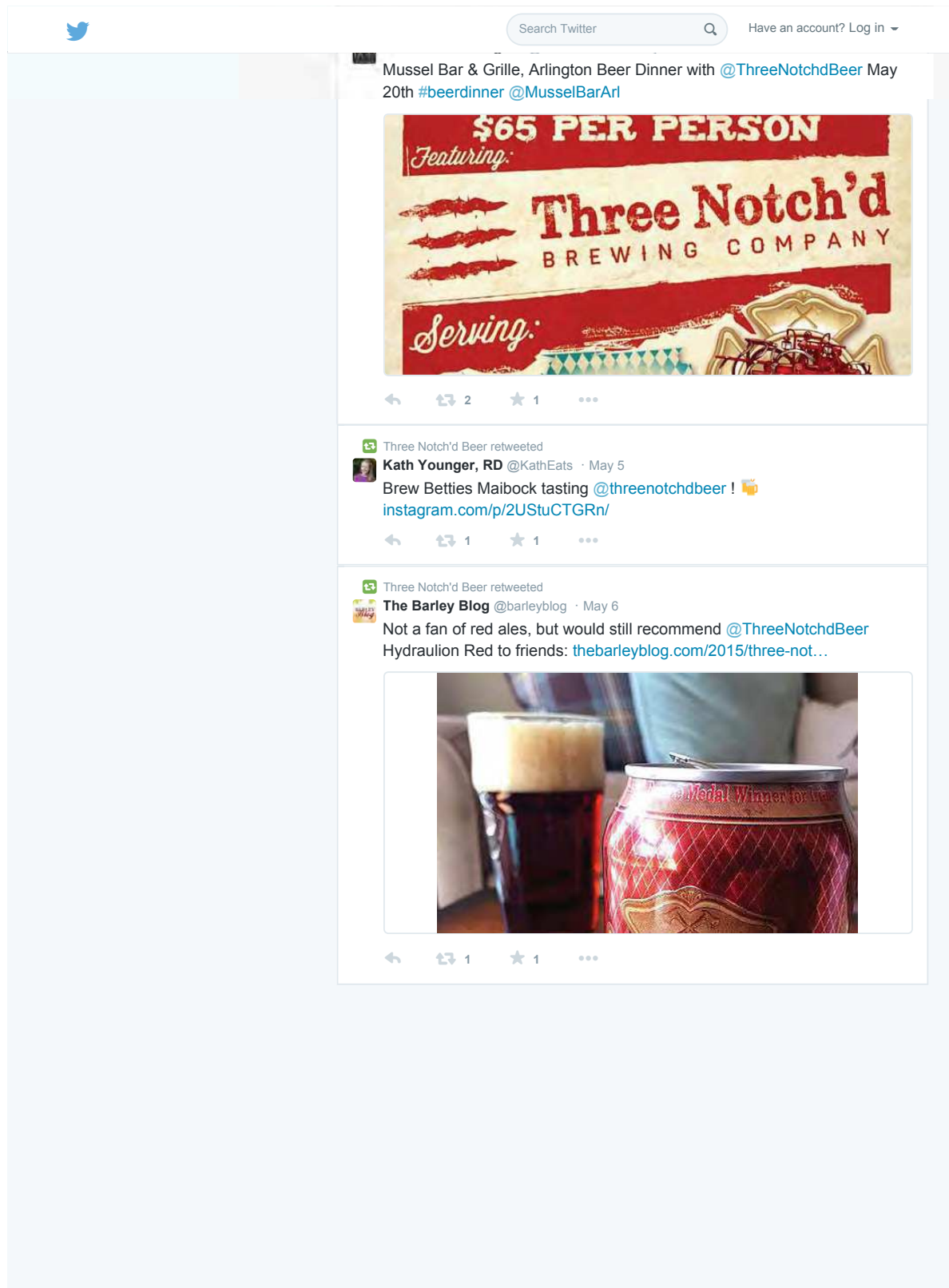


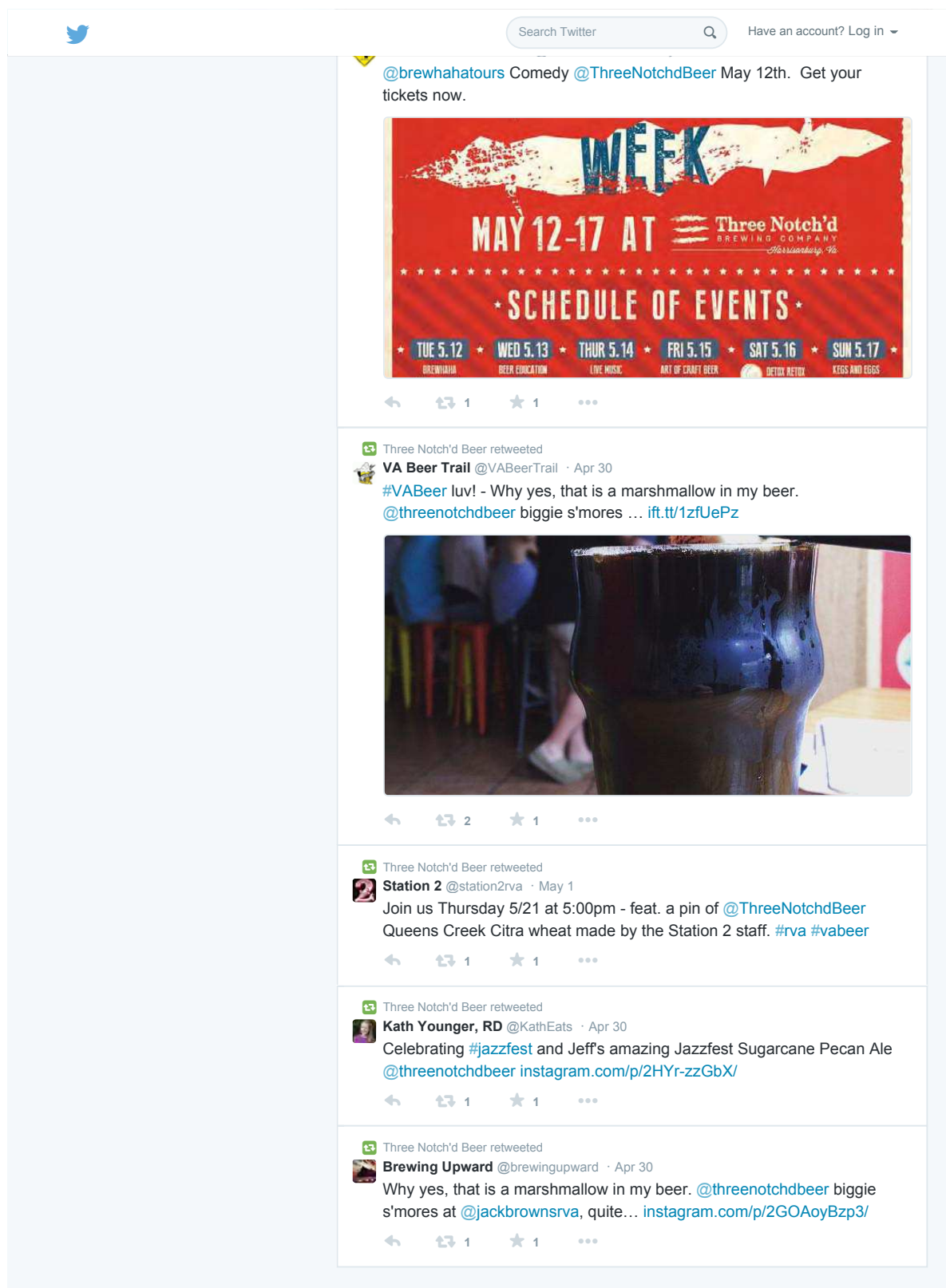


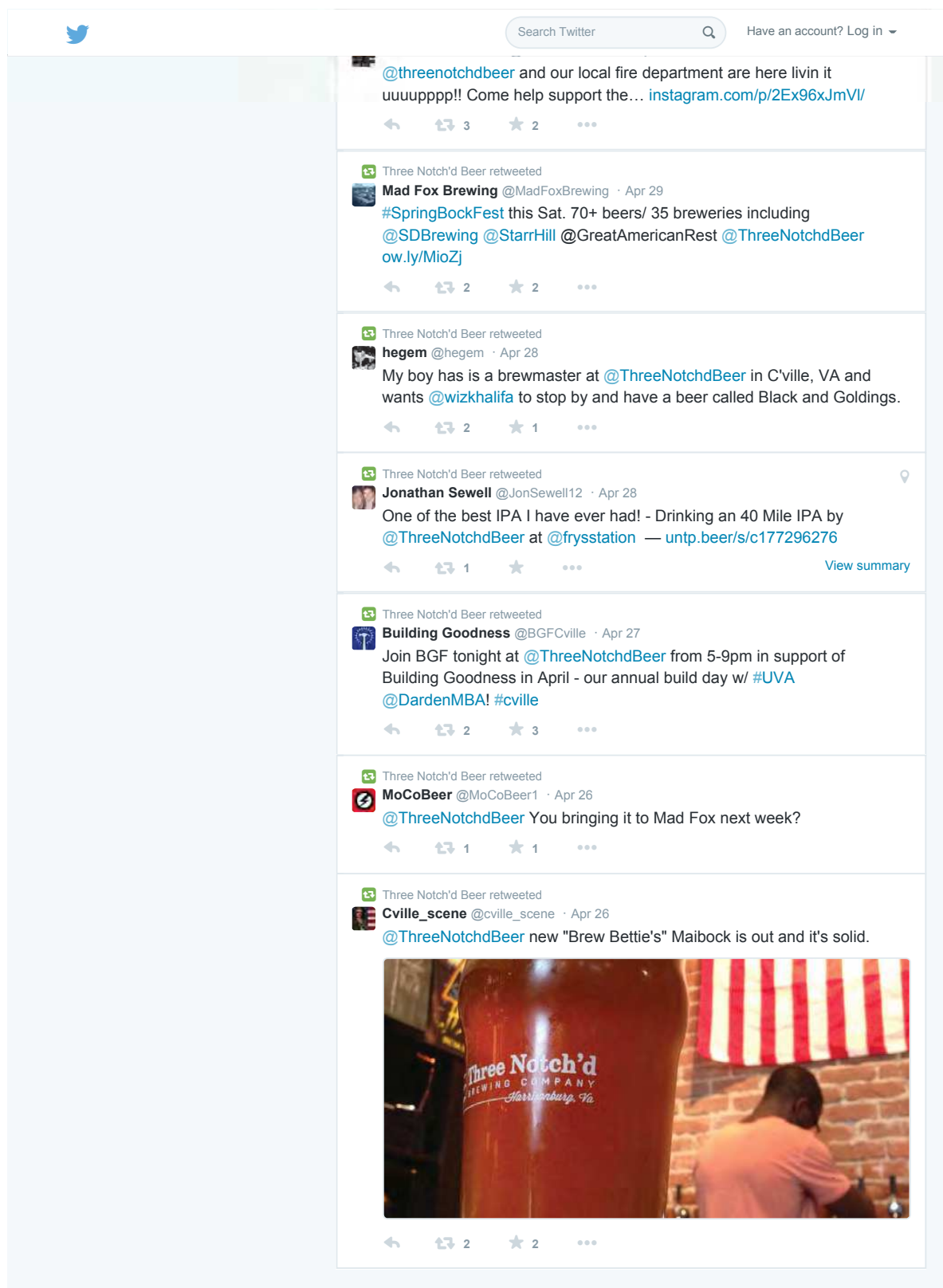


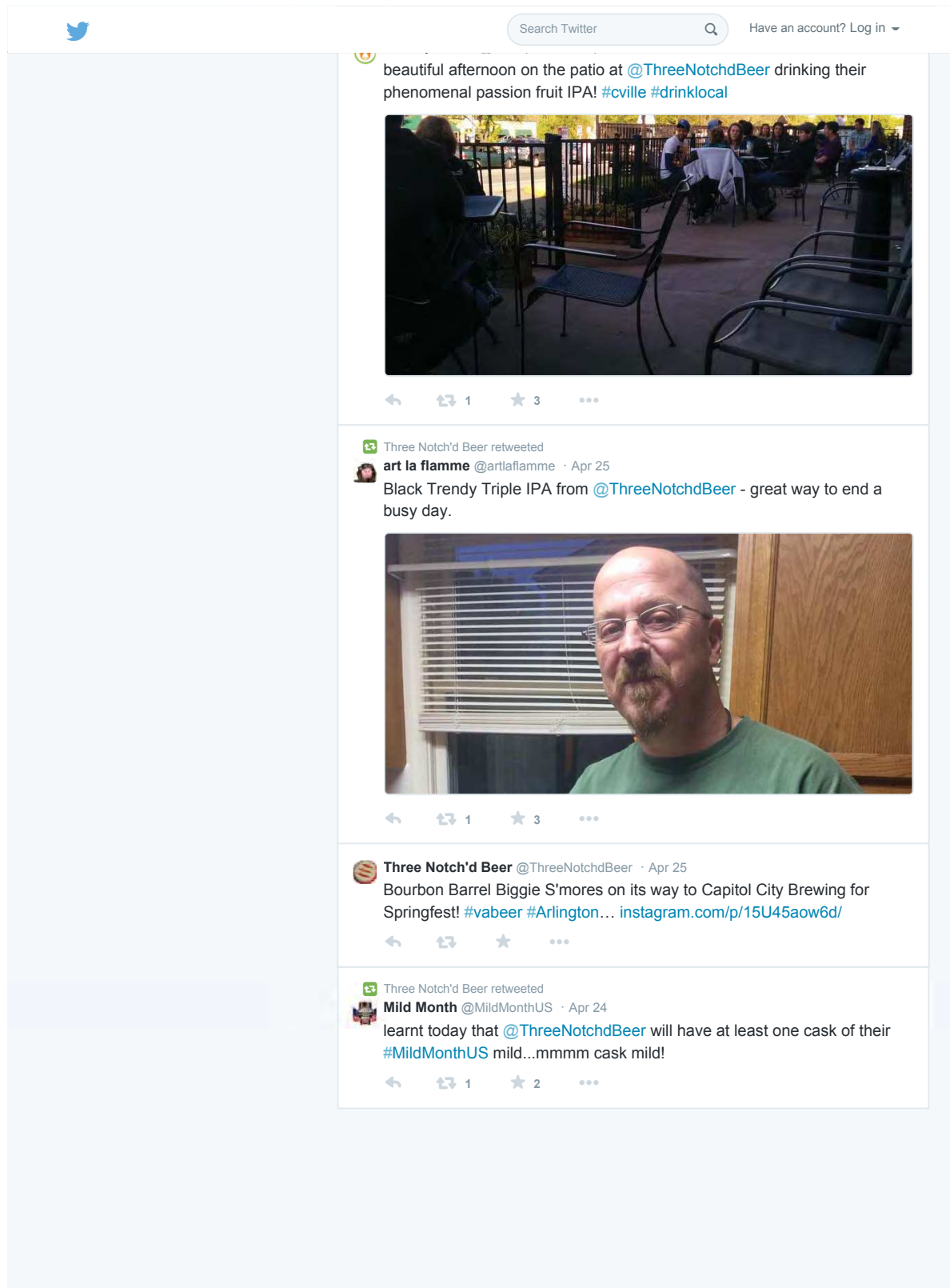


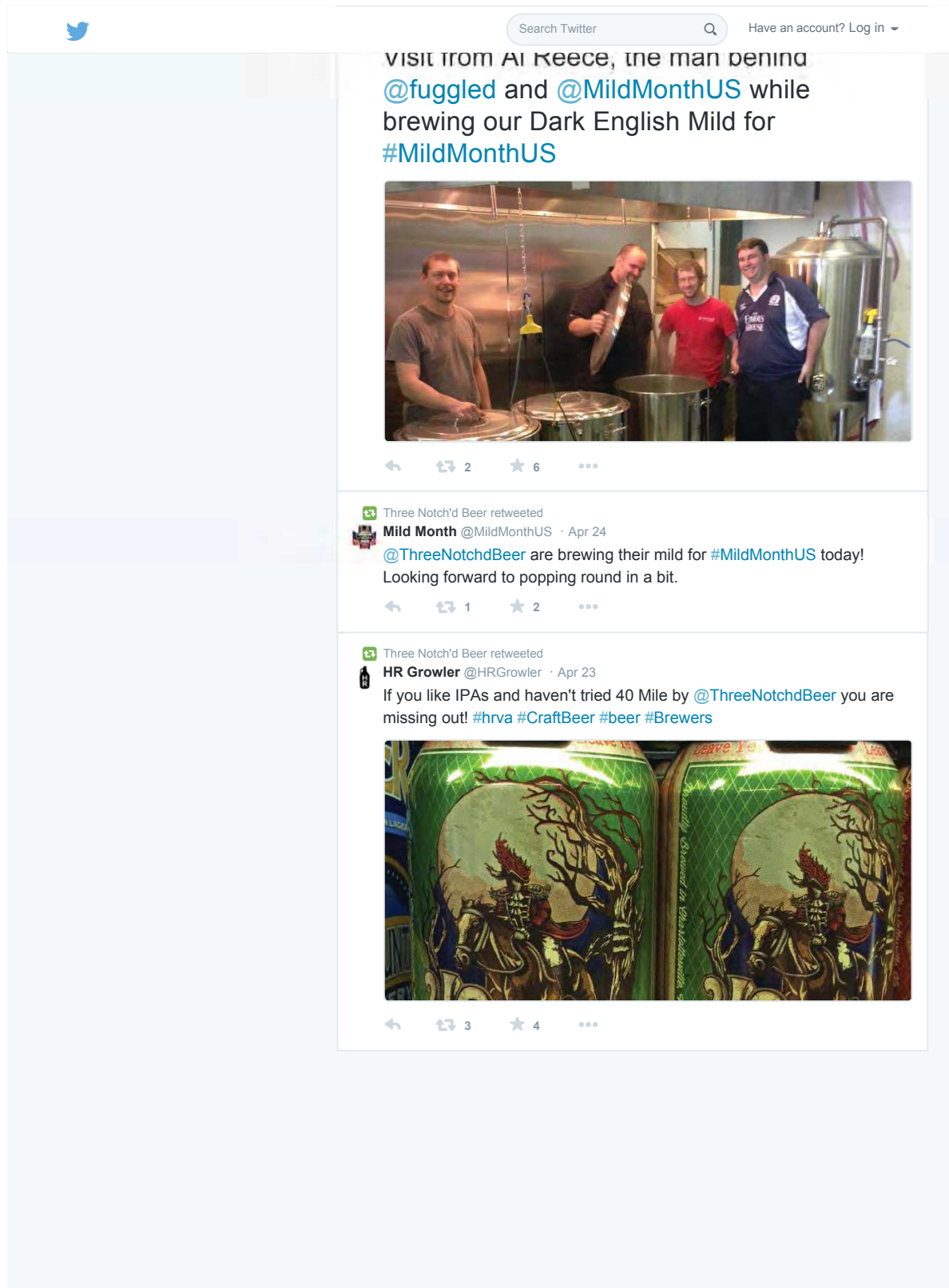


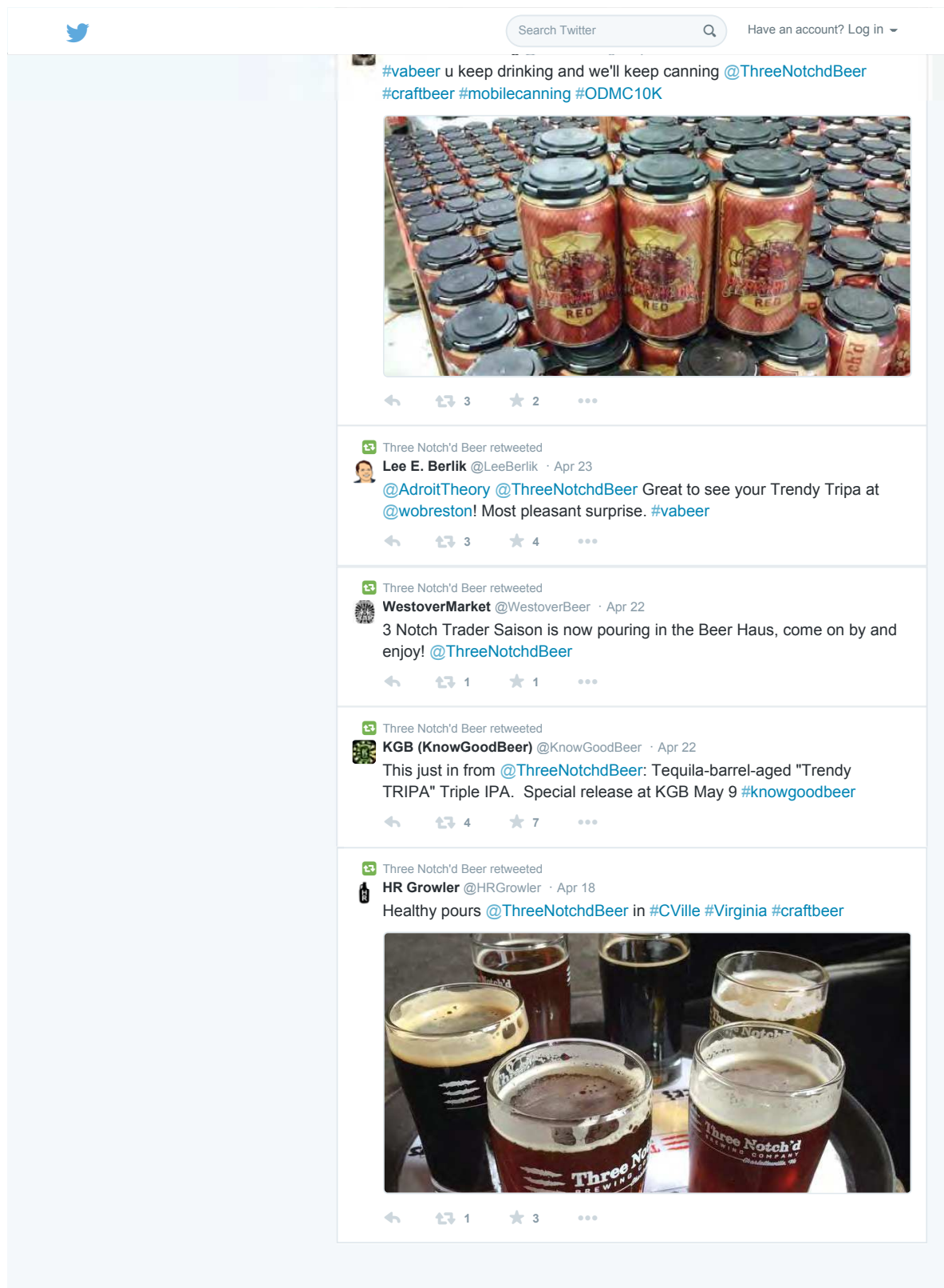


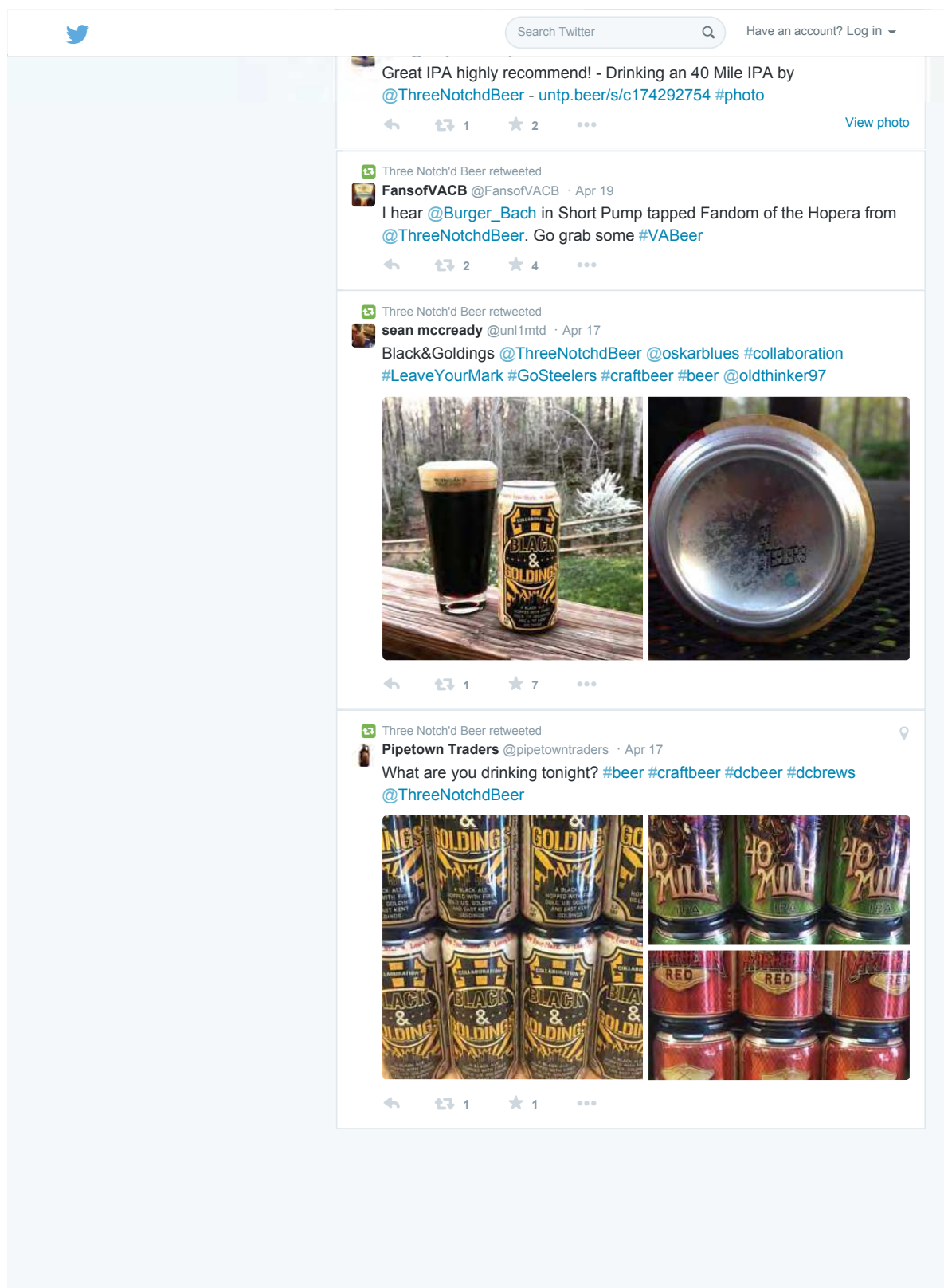


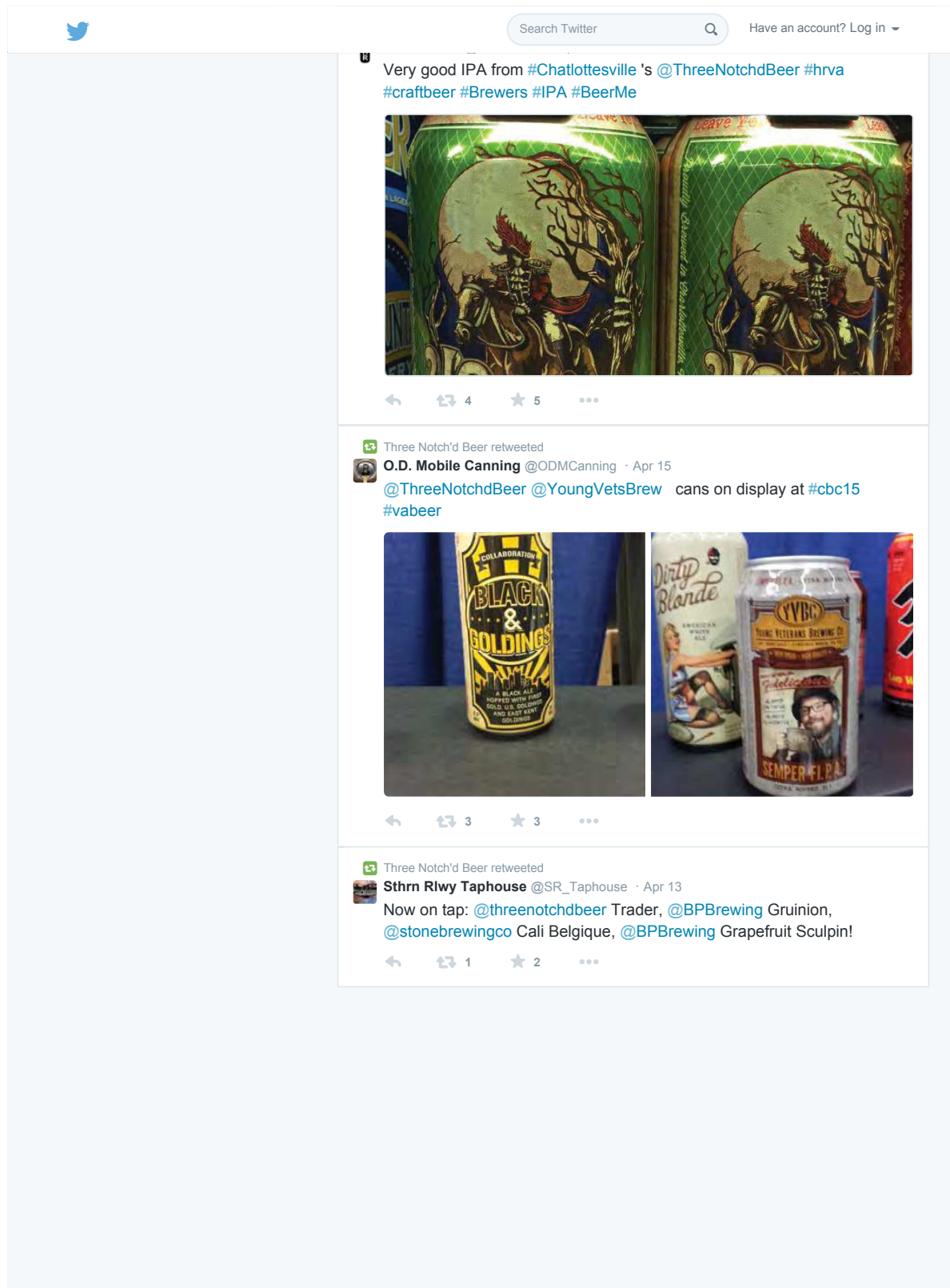


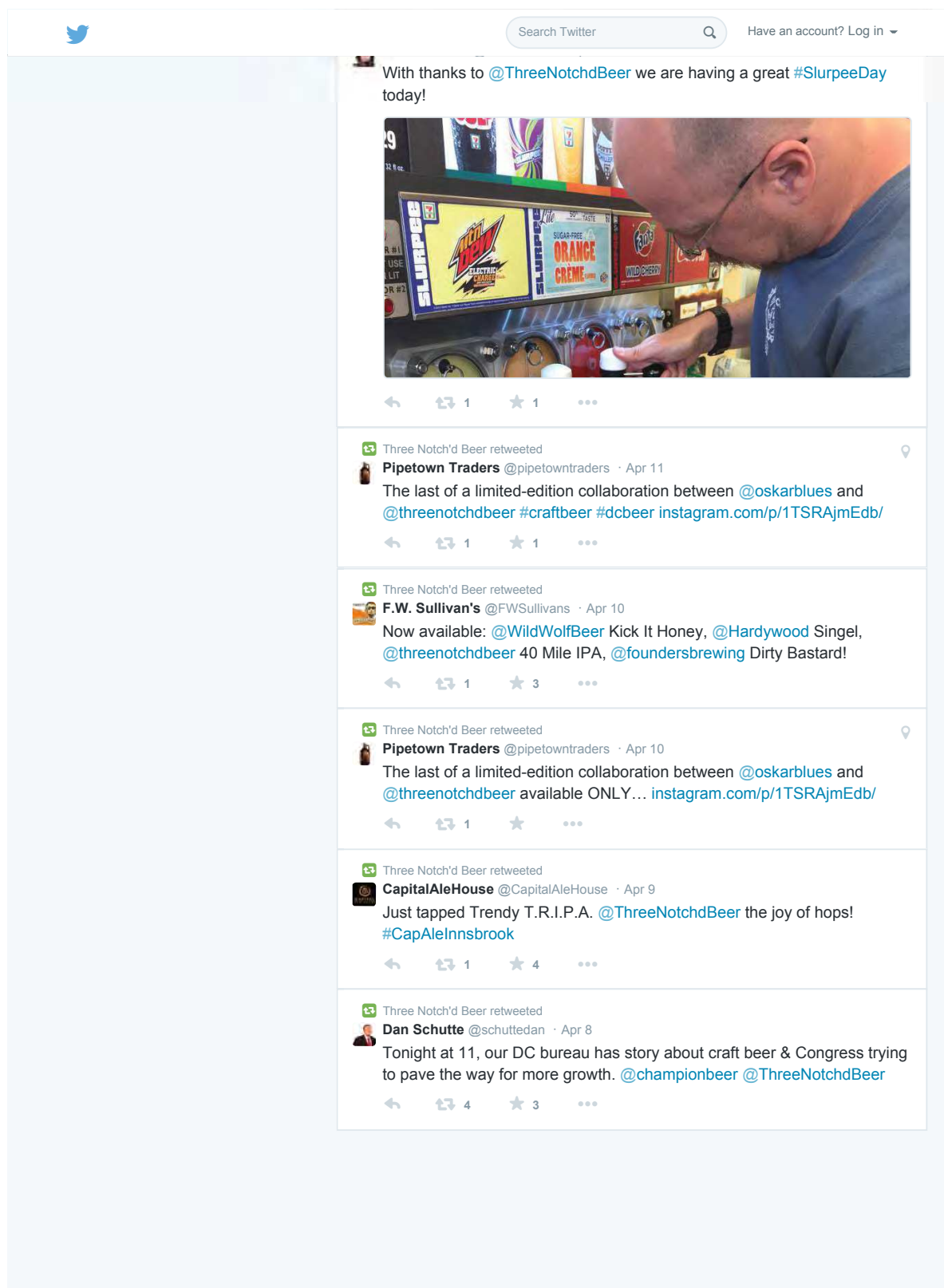


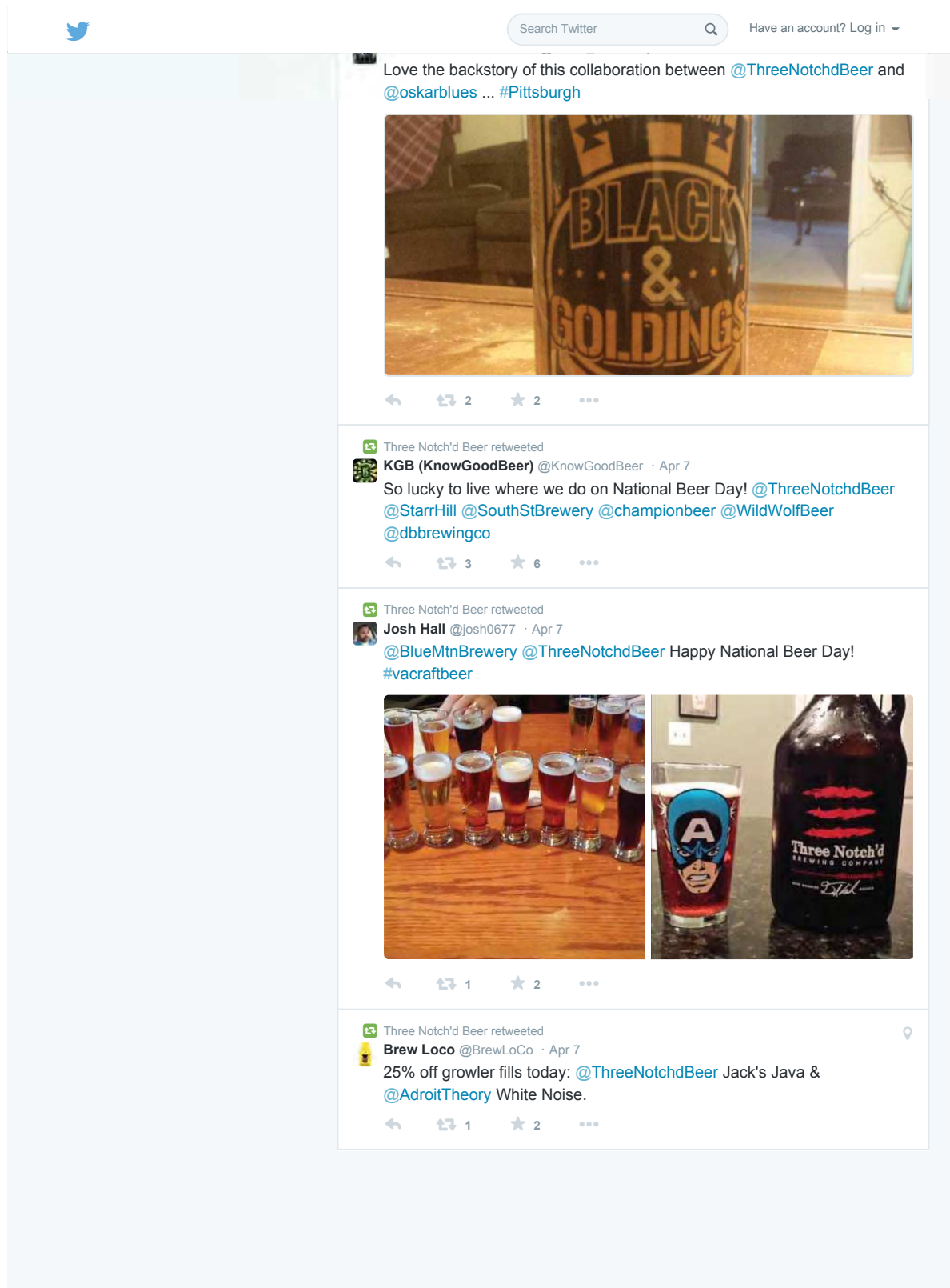


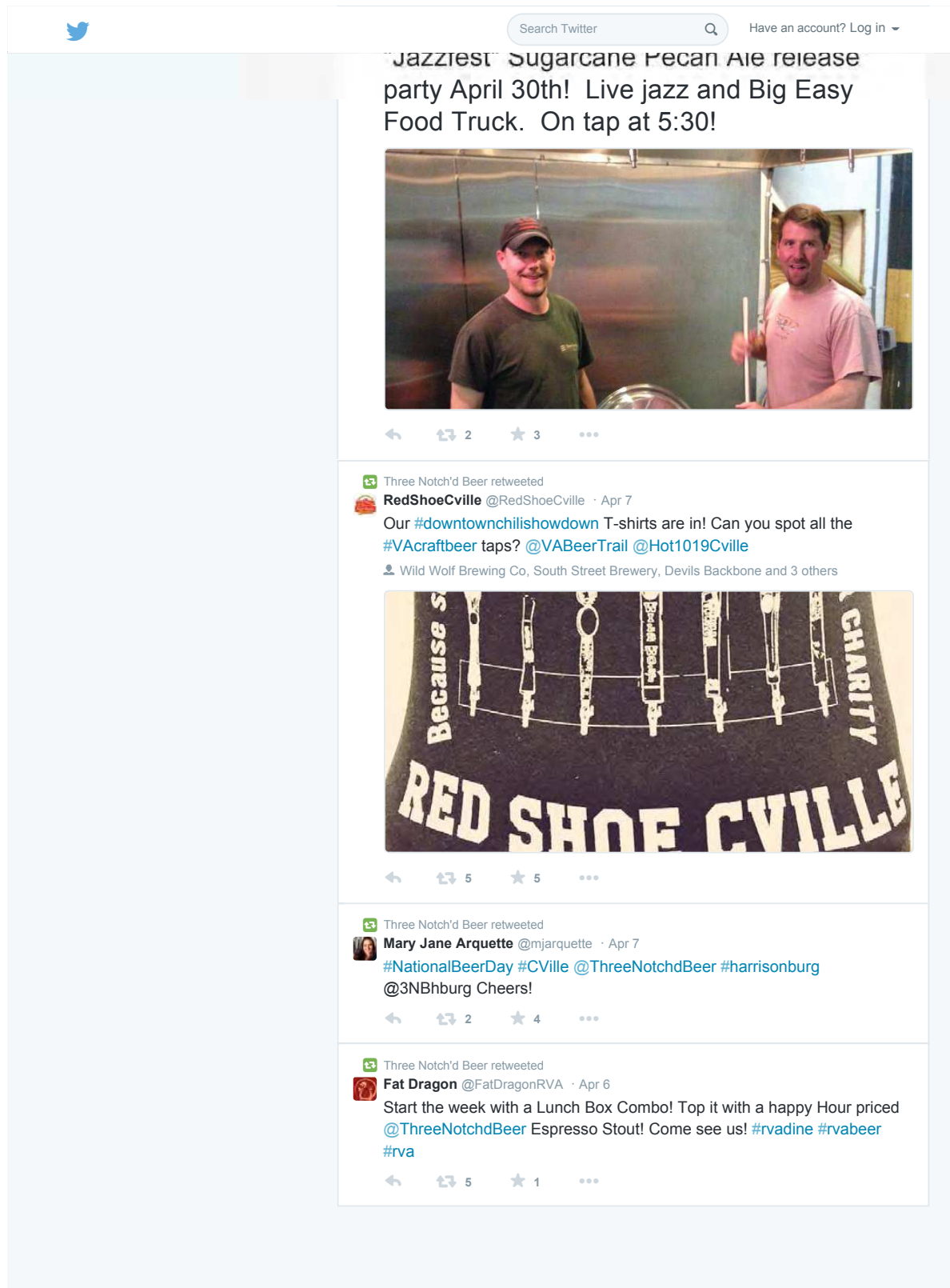


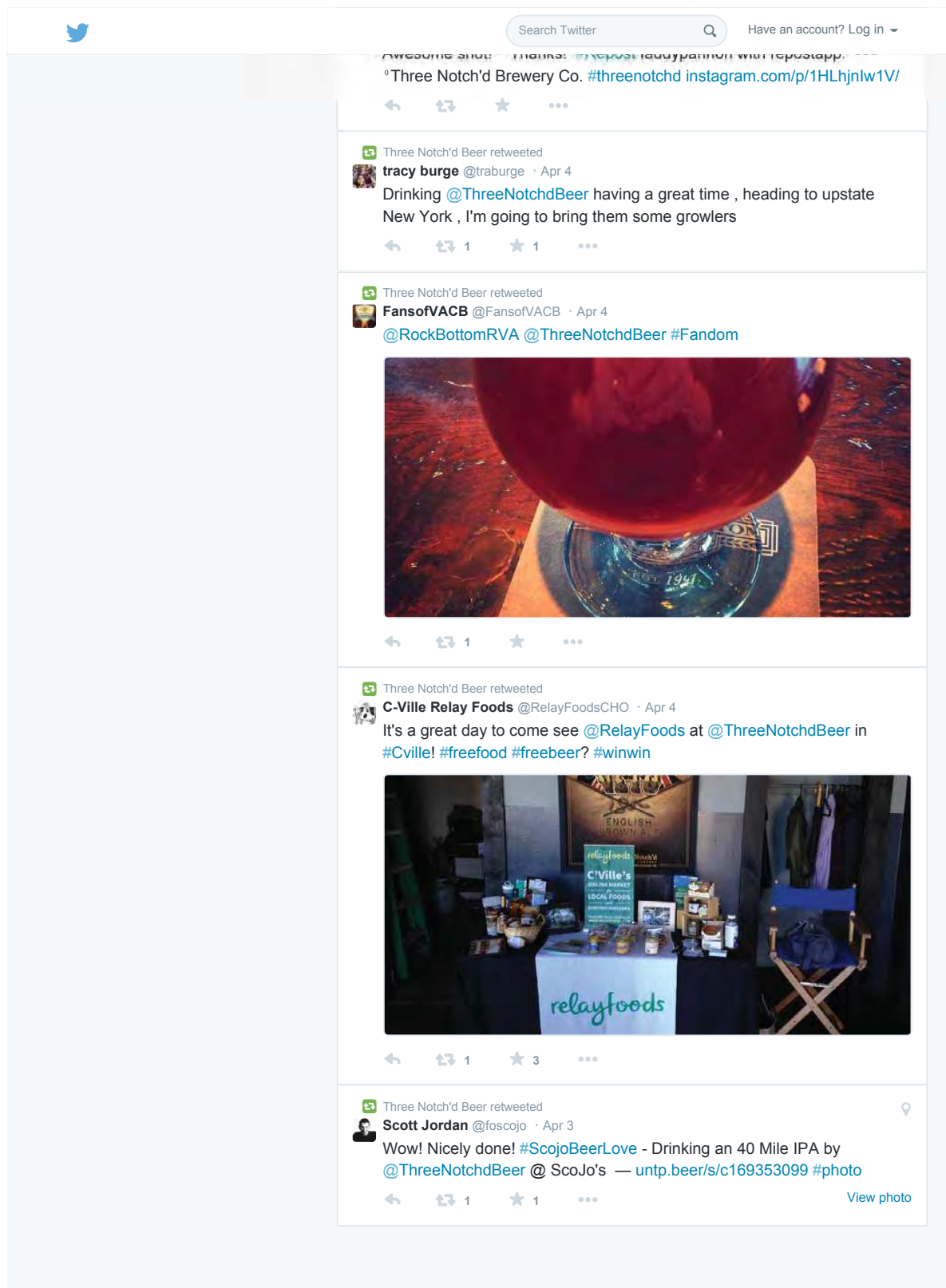


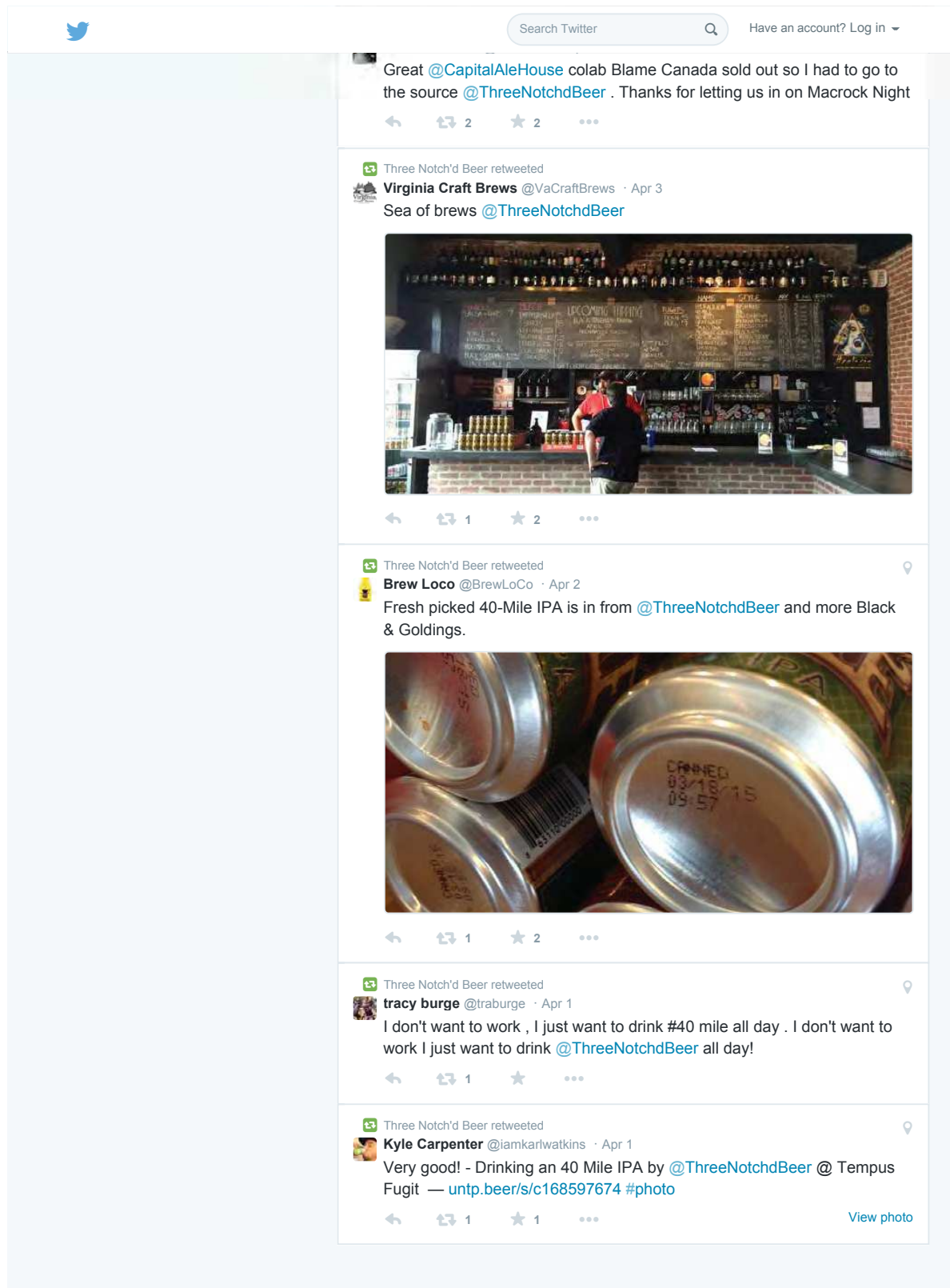












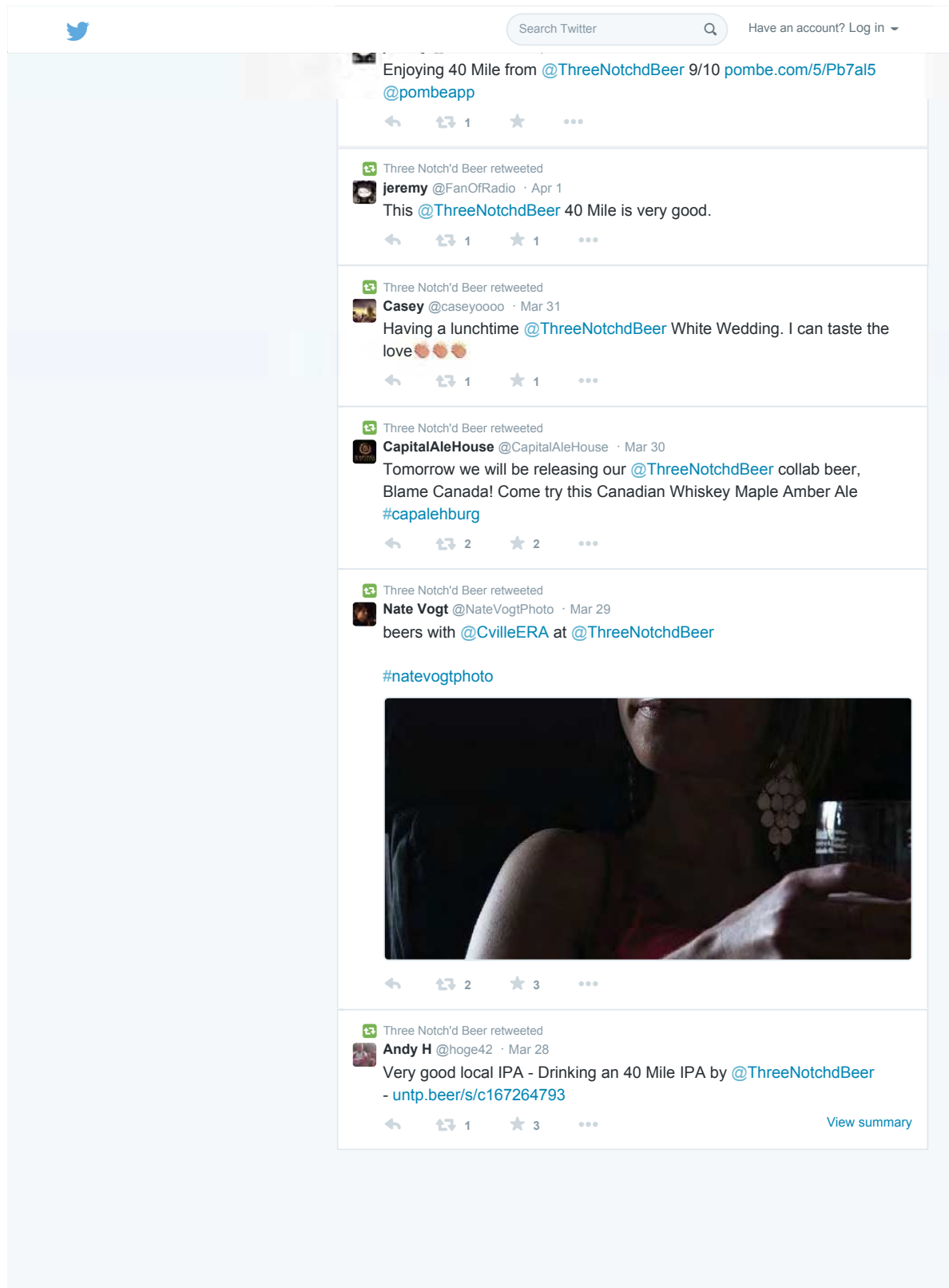
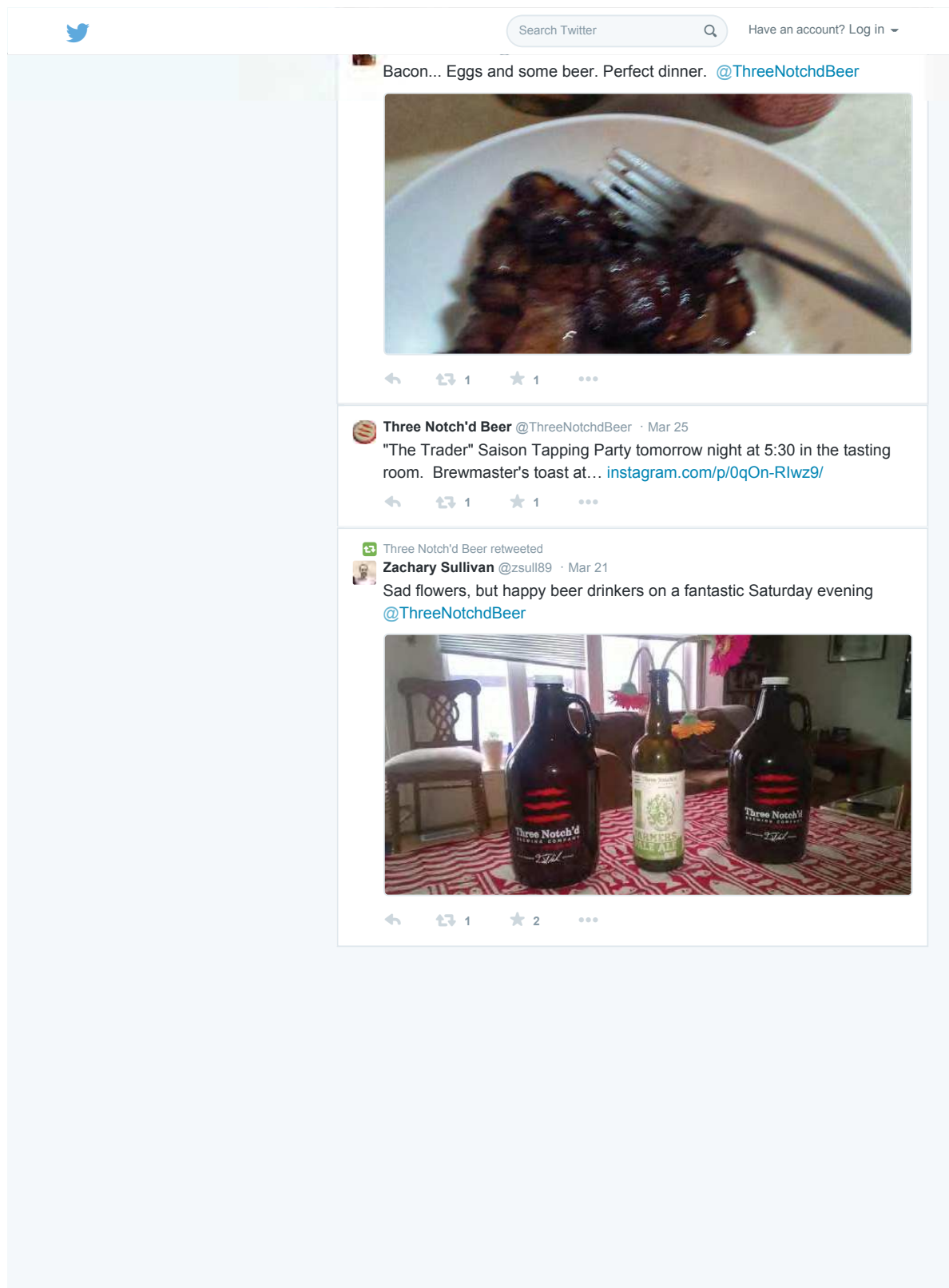
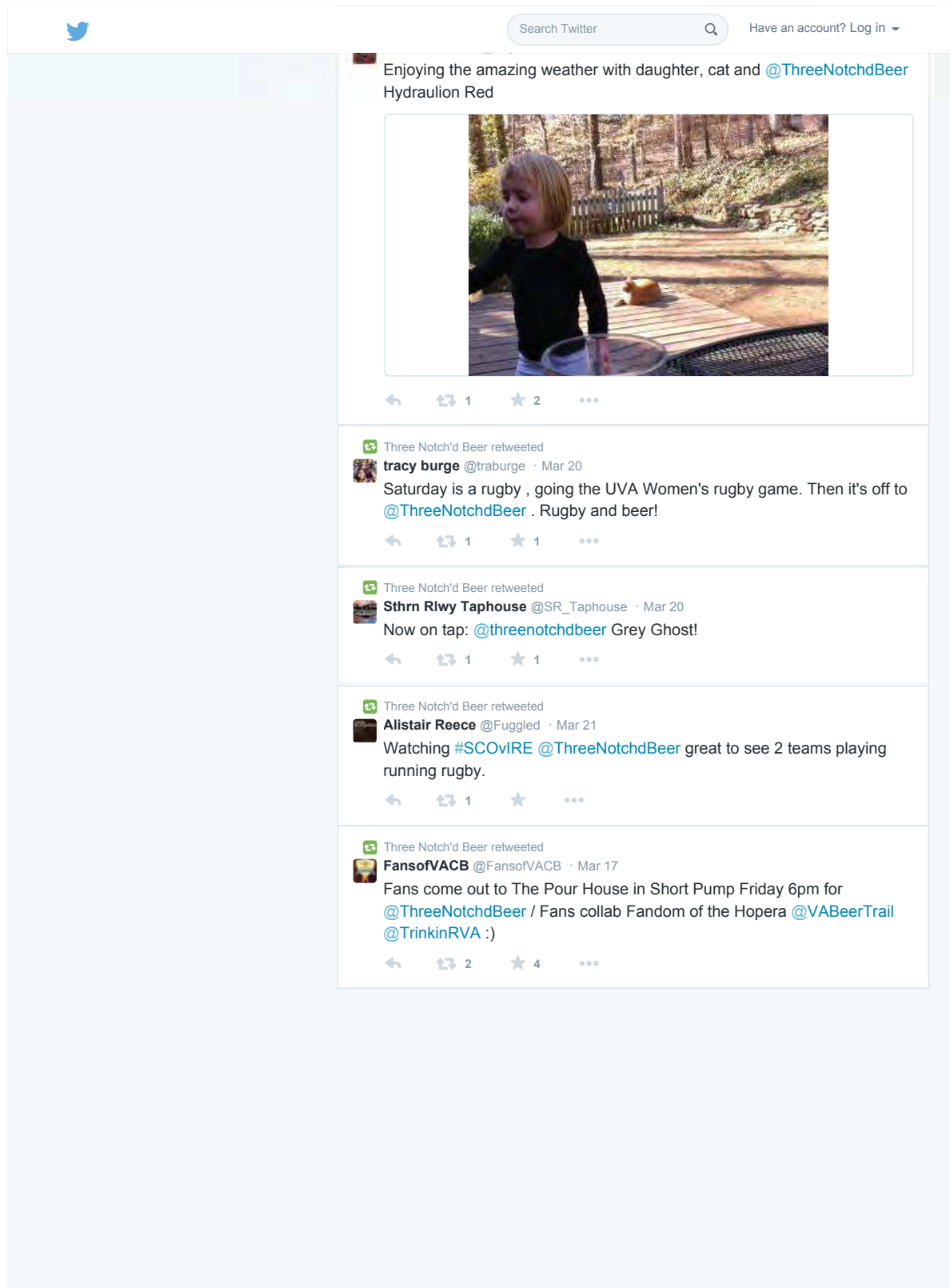


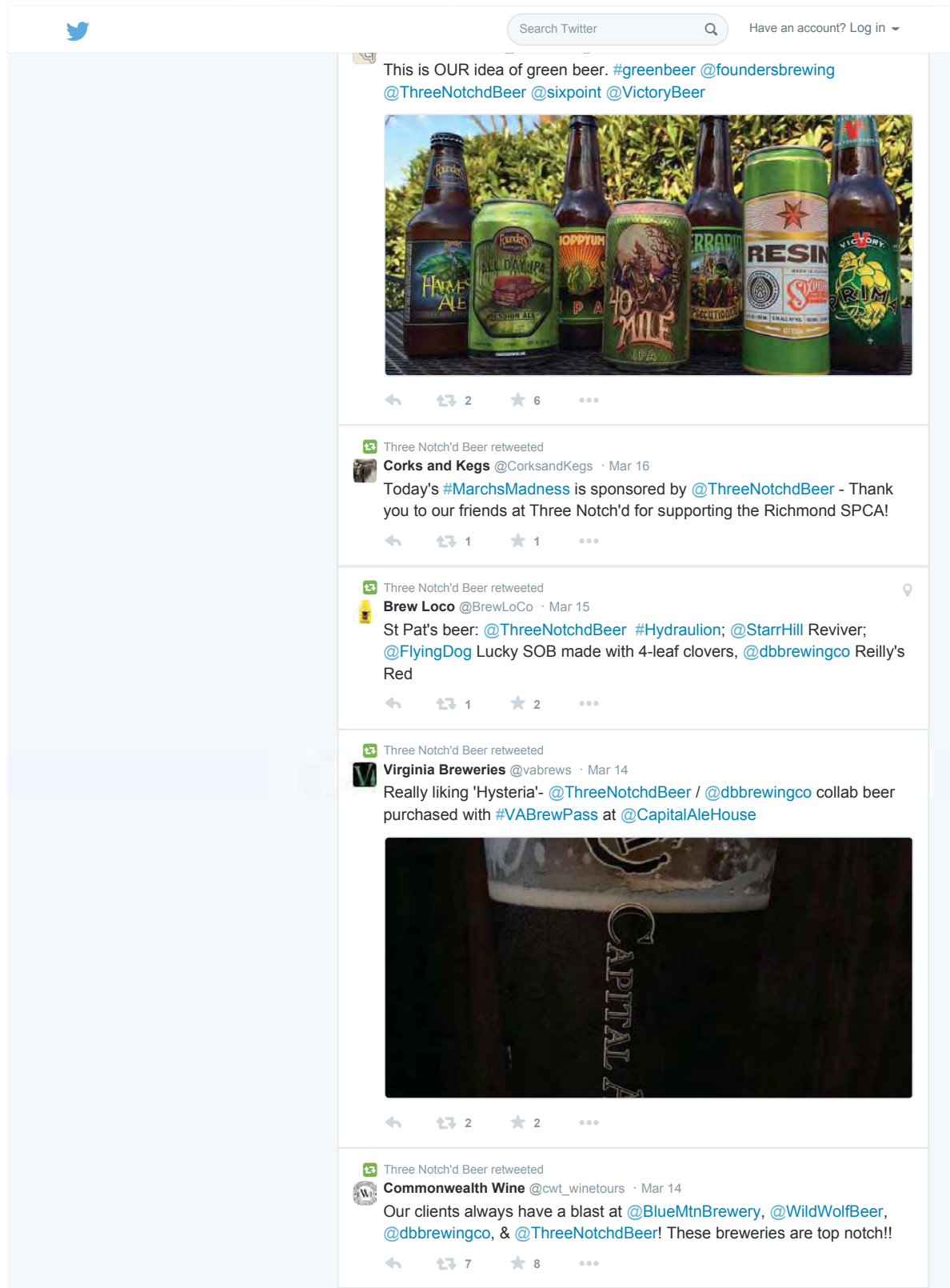


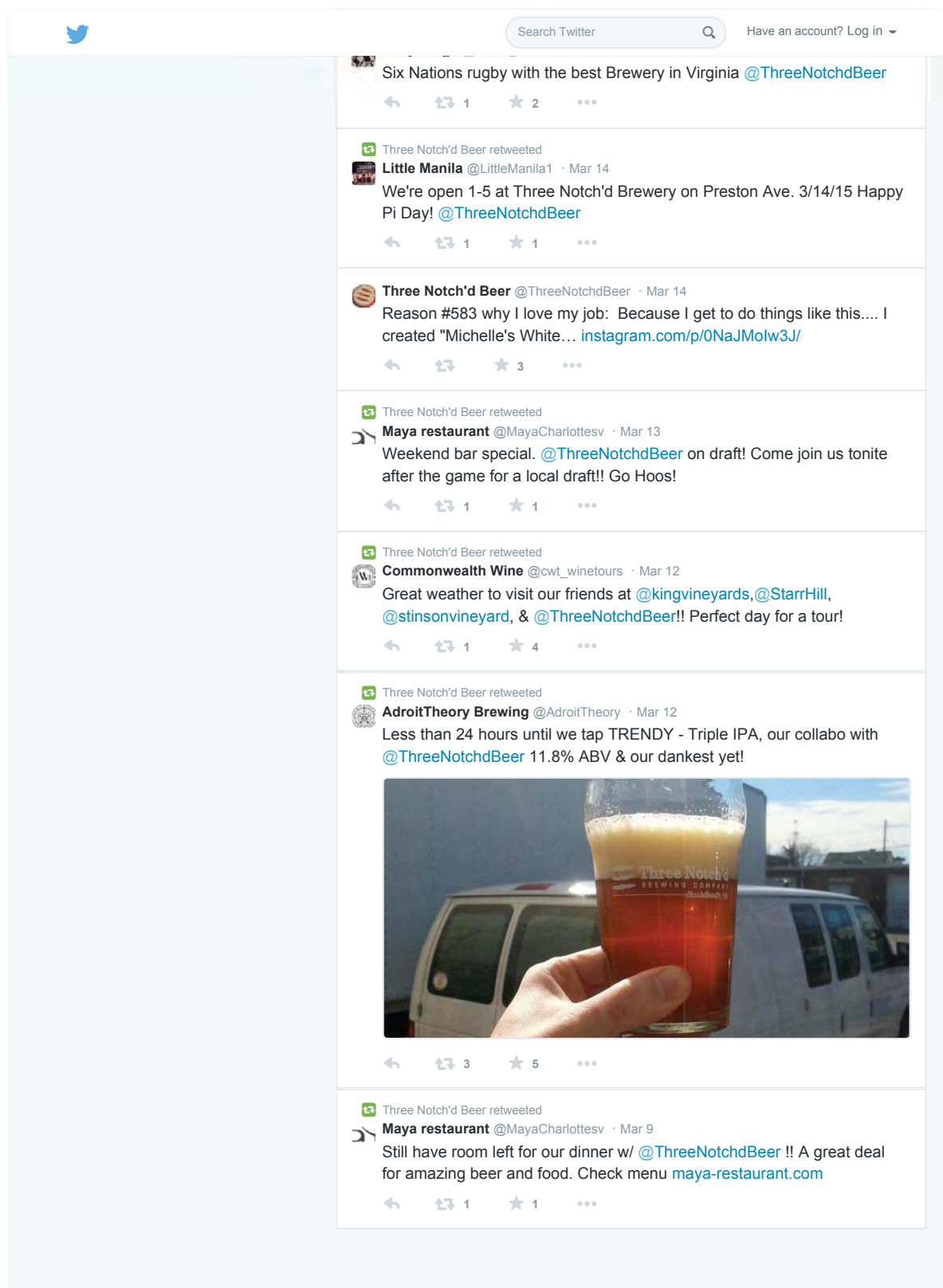
Exhibit 11 Page 23 of 153

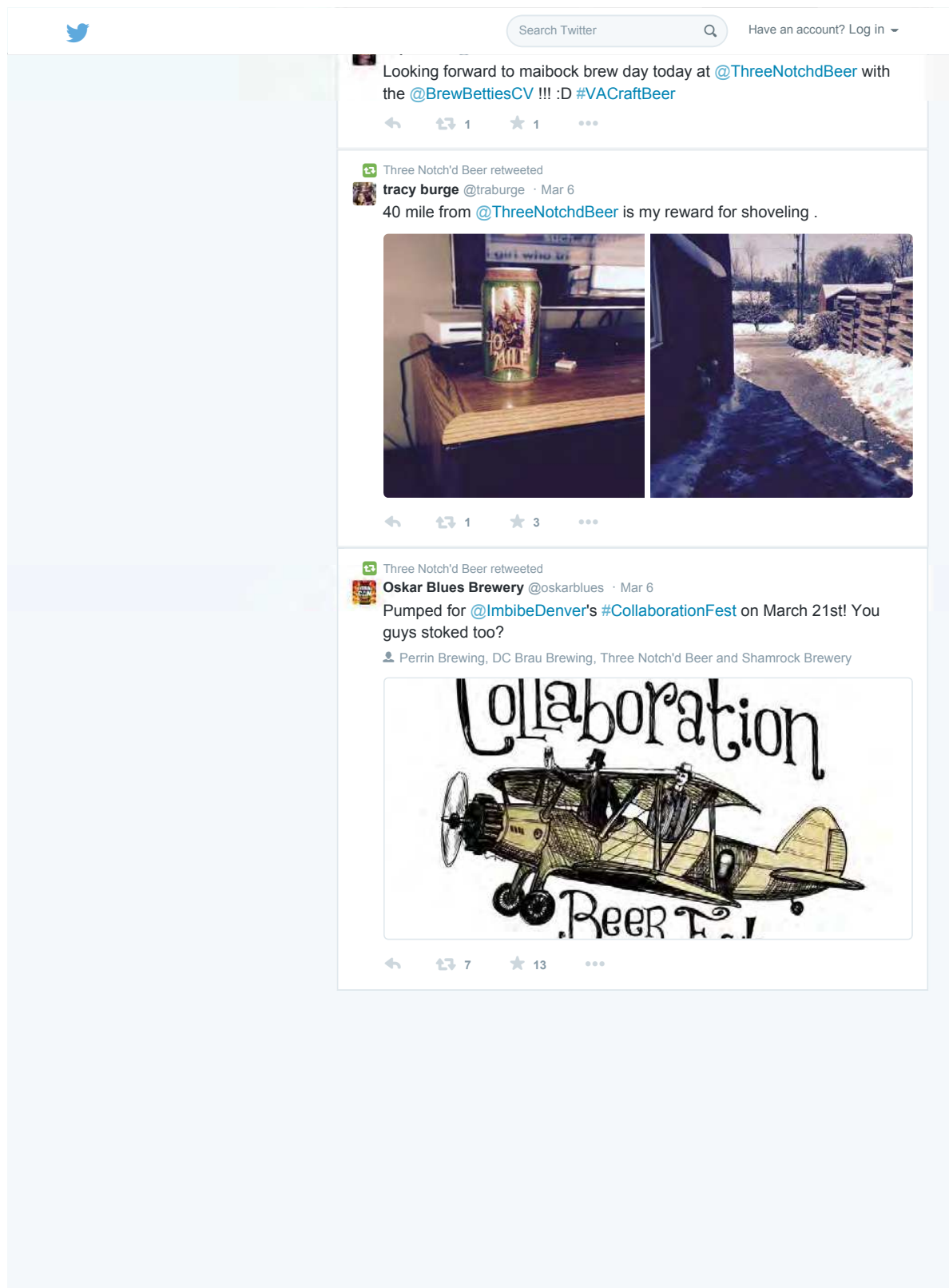
Decl. of Jason A. Champion in Support of
Opposer's Motion for Summary Judgment

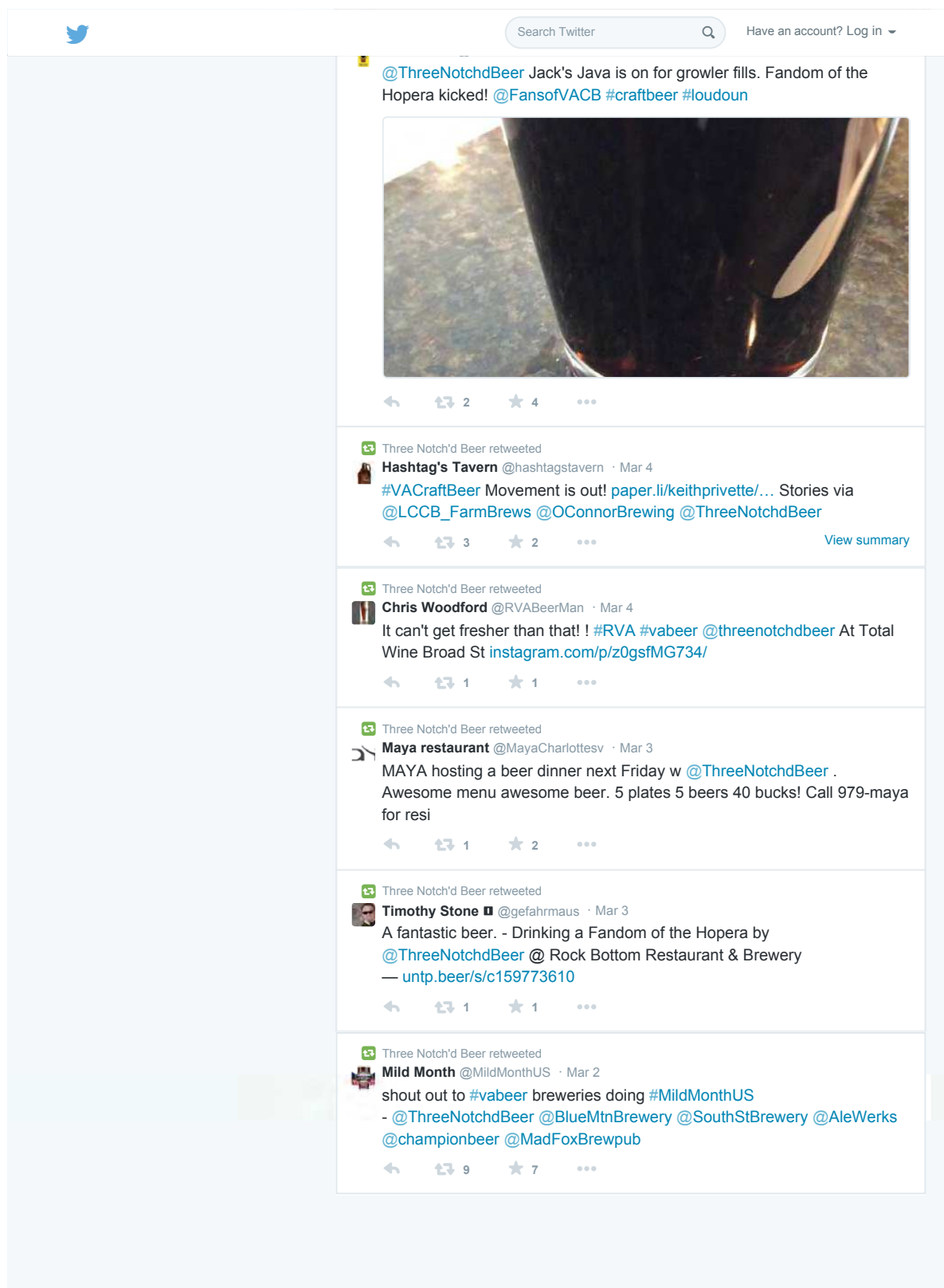


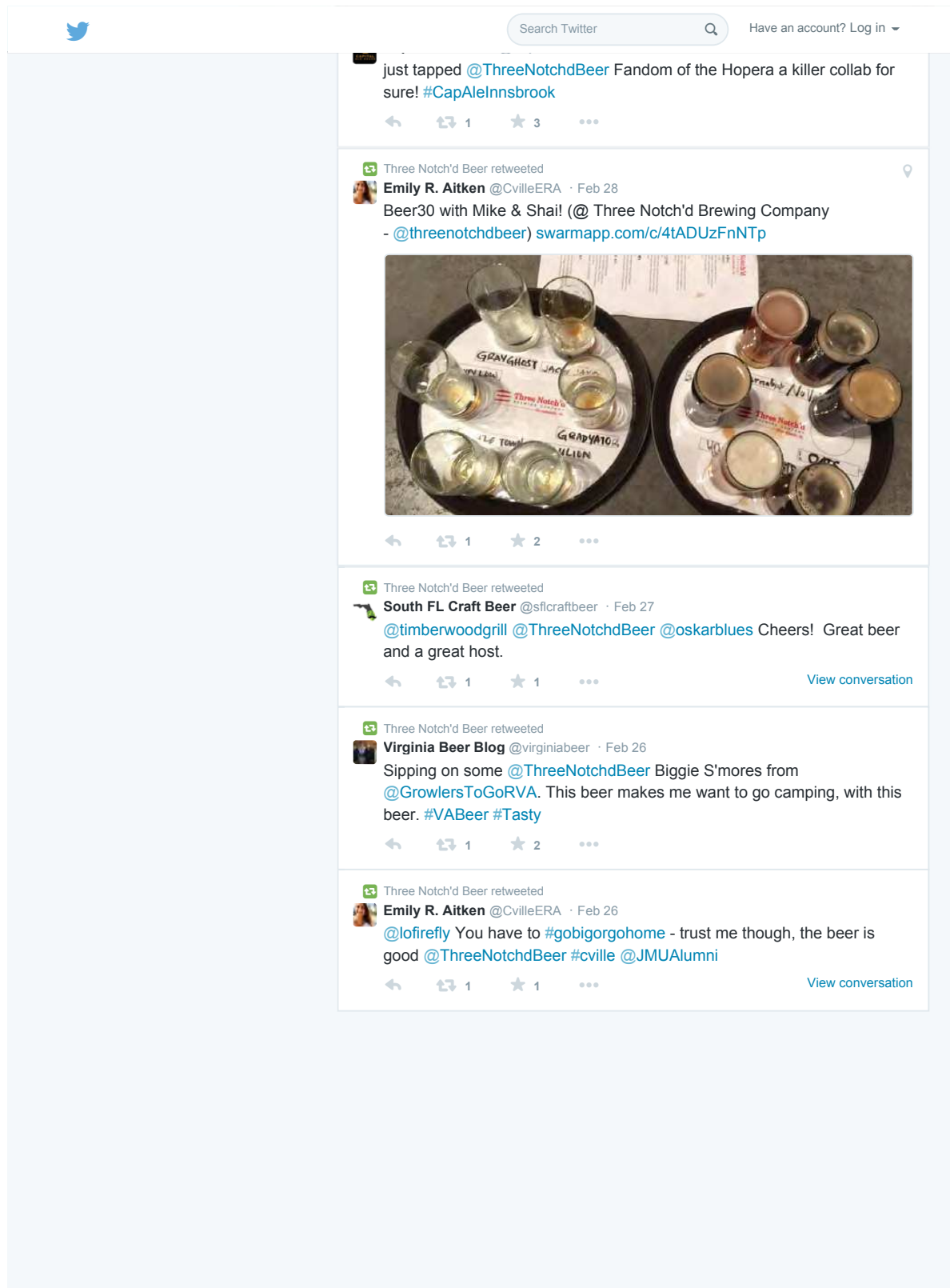


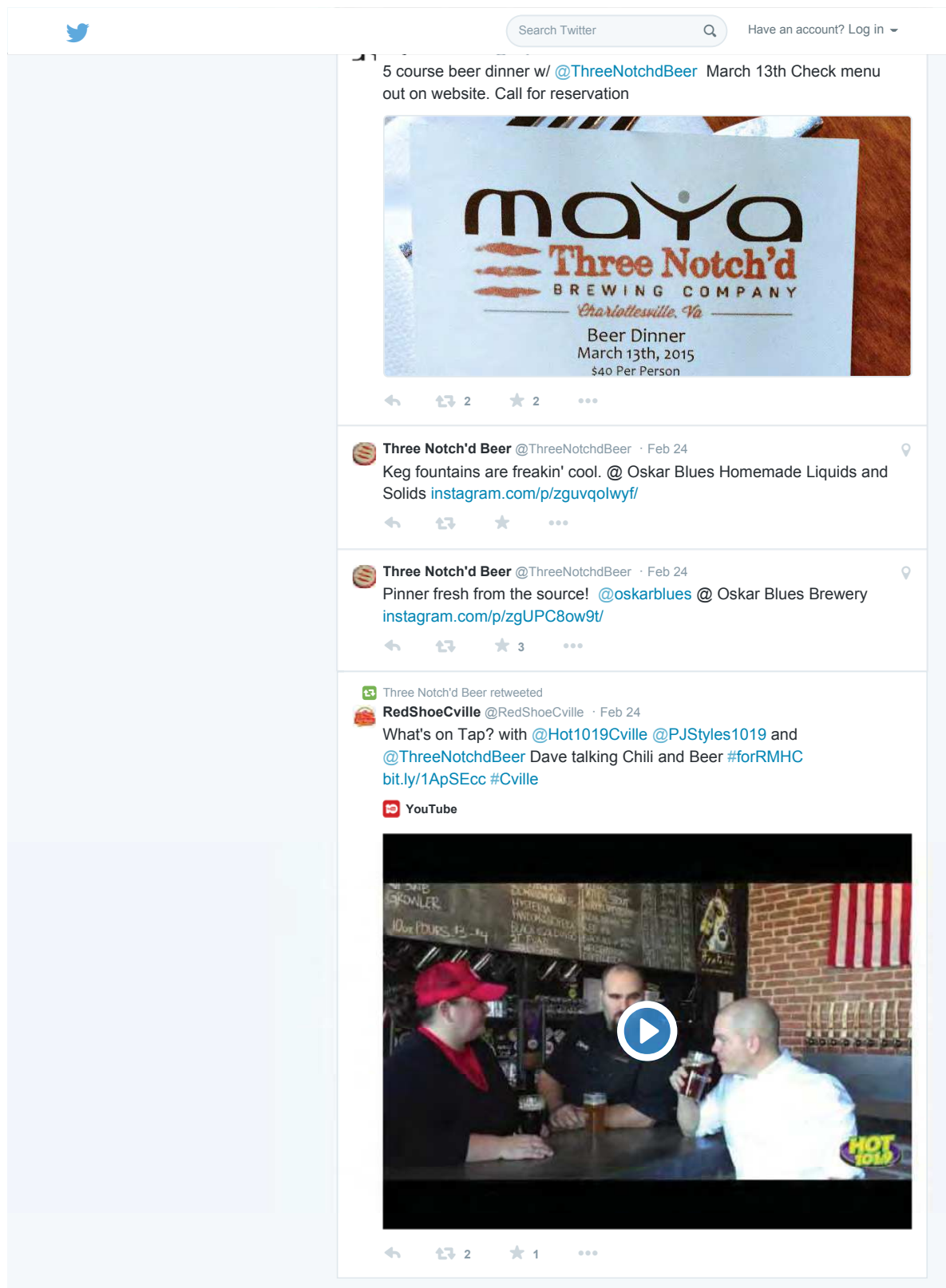













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My grab from @BrewLoCo this afternoon! @FansofVACB @oskarblues @ThreeNotchdBeer @Hardywood @TheAbitaBeer #craftbeer




← 1 4 ...

Three Notch'd Beer retweeted

Tin Cannon Brewing @TinCannonBrewCo · Feb 23

Got to meet #JasonOliver @dbbrewingco & #BetseyOBrien @ThreeNotchdBeer this wkend! Thanks for coming out & the tips!

Jose Ortiz and Sabrina




← 3 7 ...

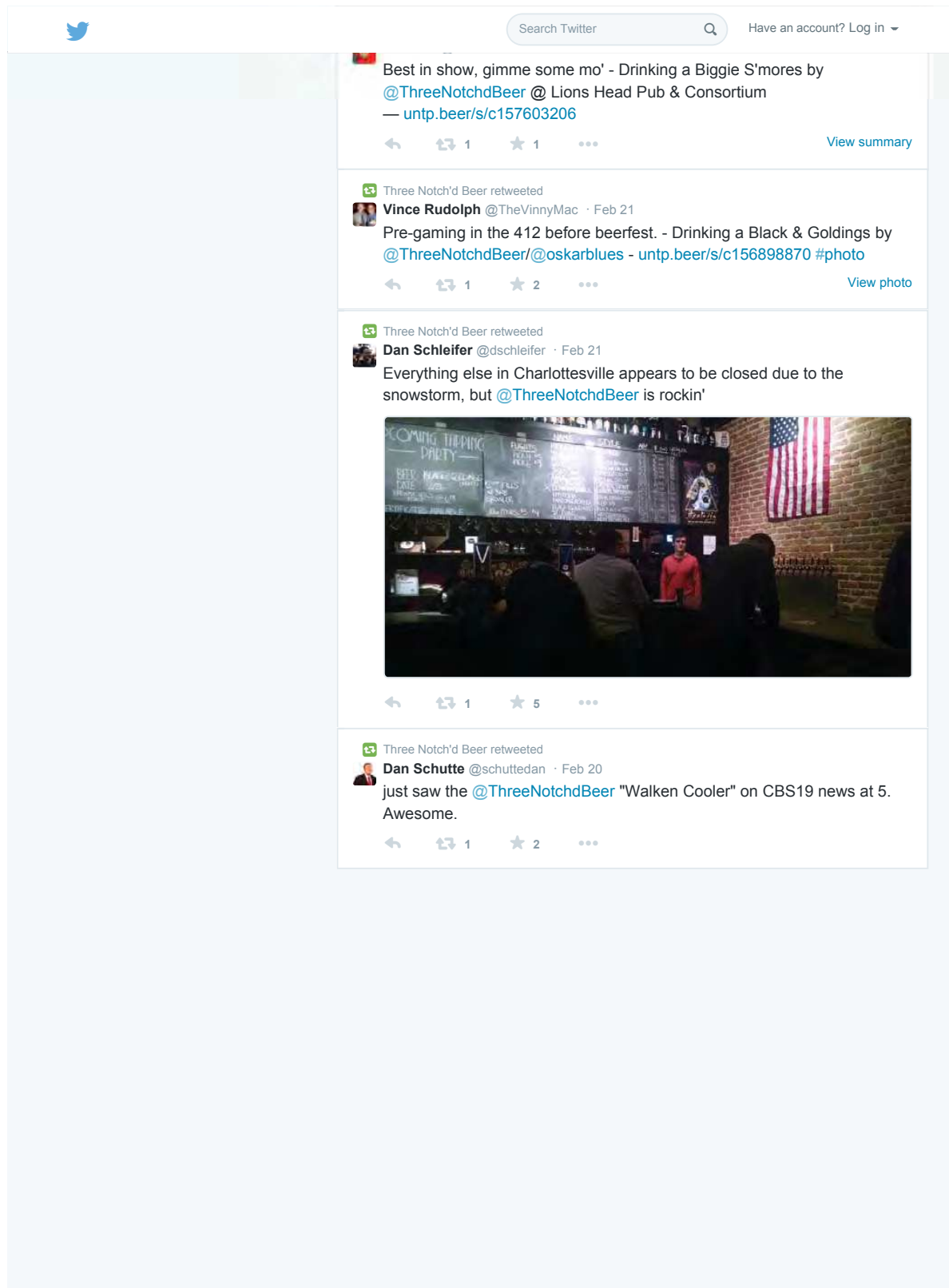
Three Notch'd Beer retweeted

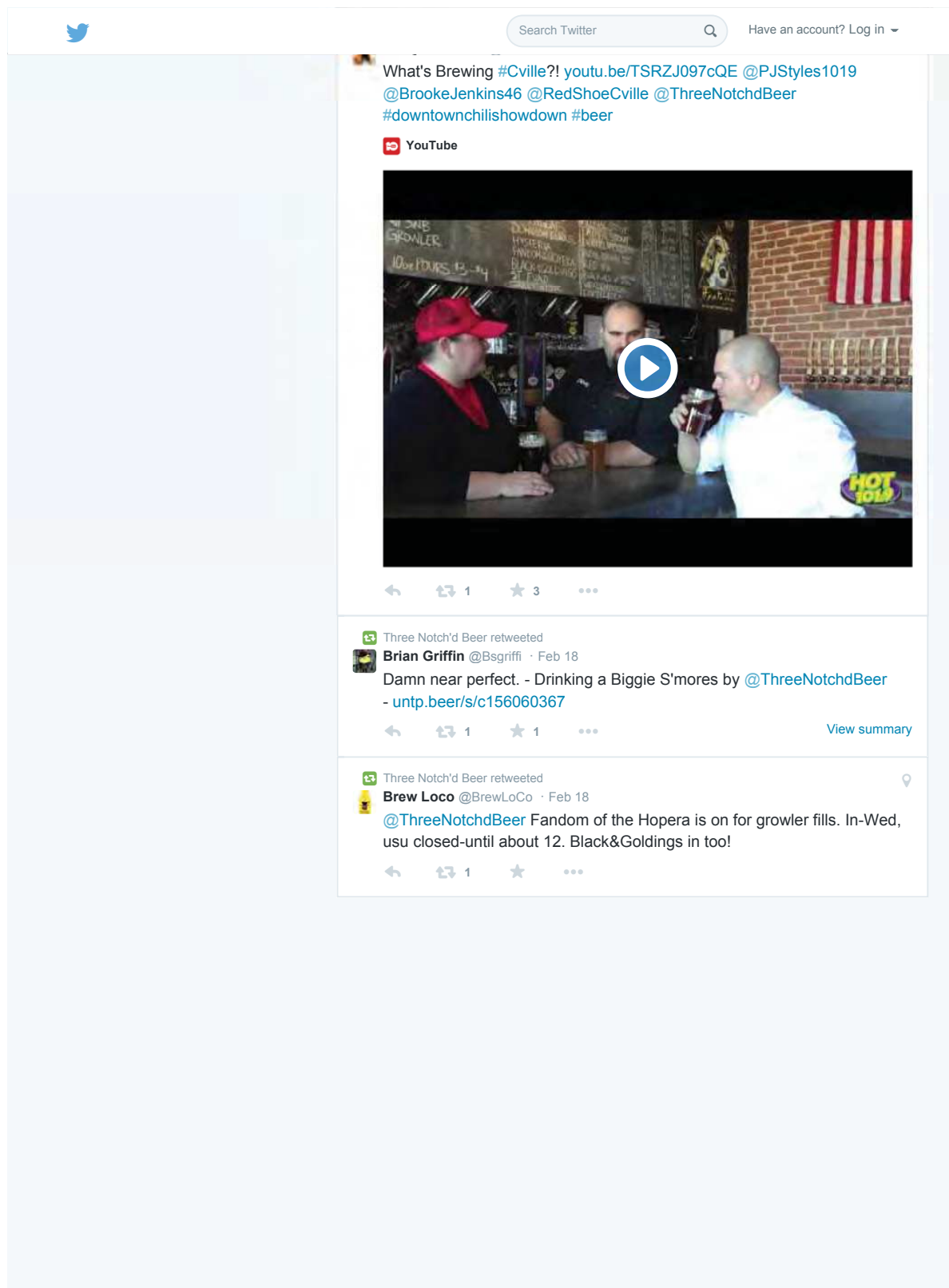
Timberwood Grill @timberwoodgrill · Feb 23

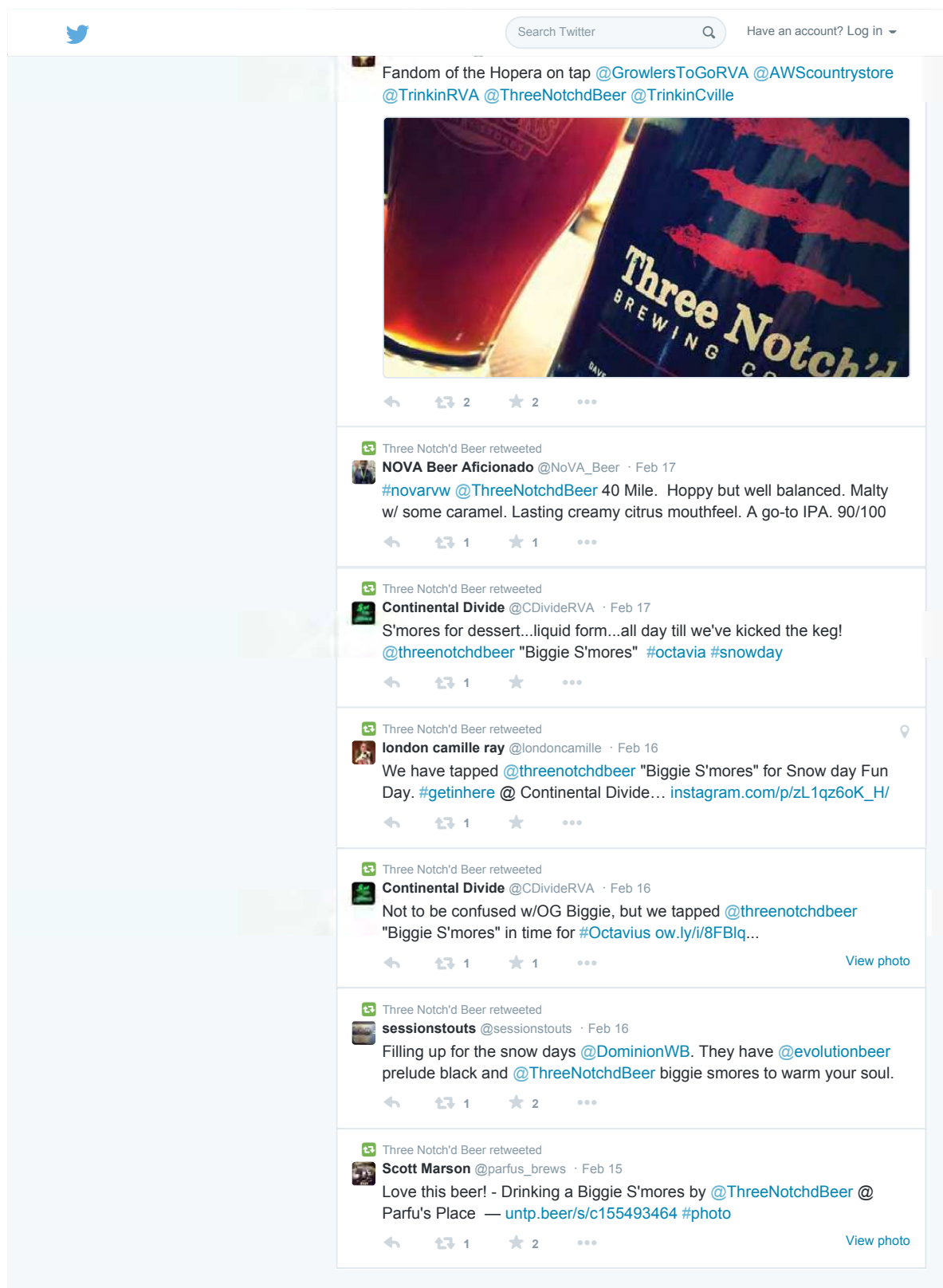
Come see us tomorrow night(2/24) between 5-9p for Steal The Pint with @ThreeNotchdBeer and @oskarblues!!!

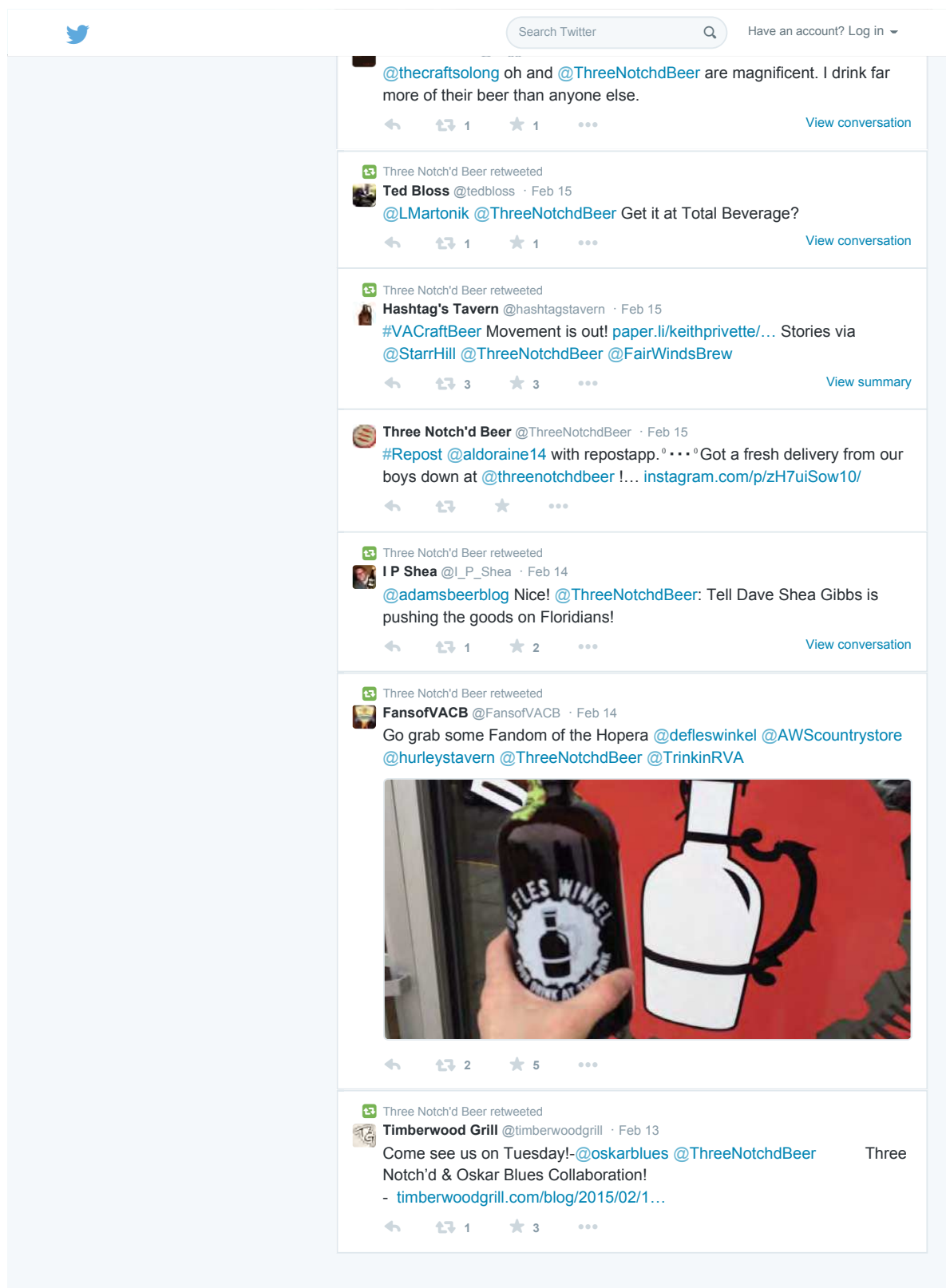


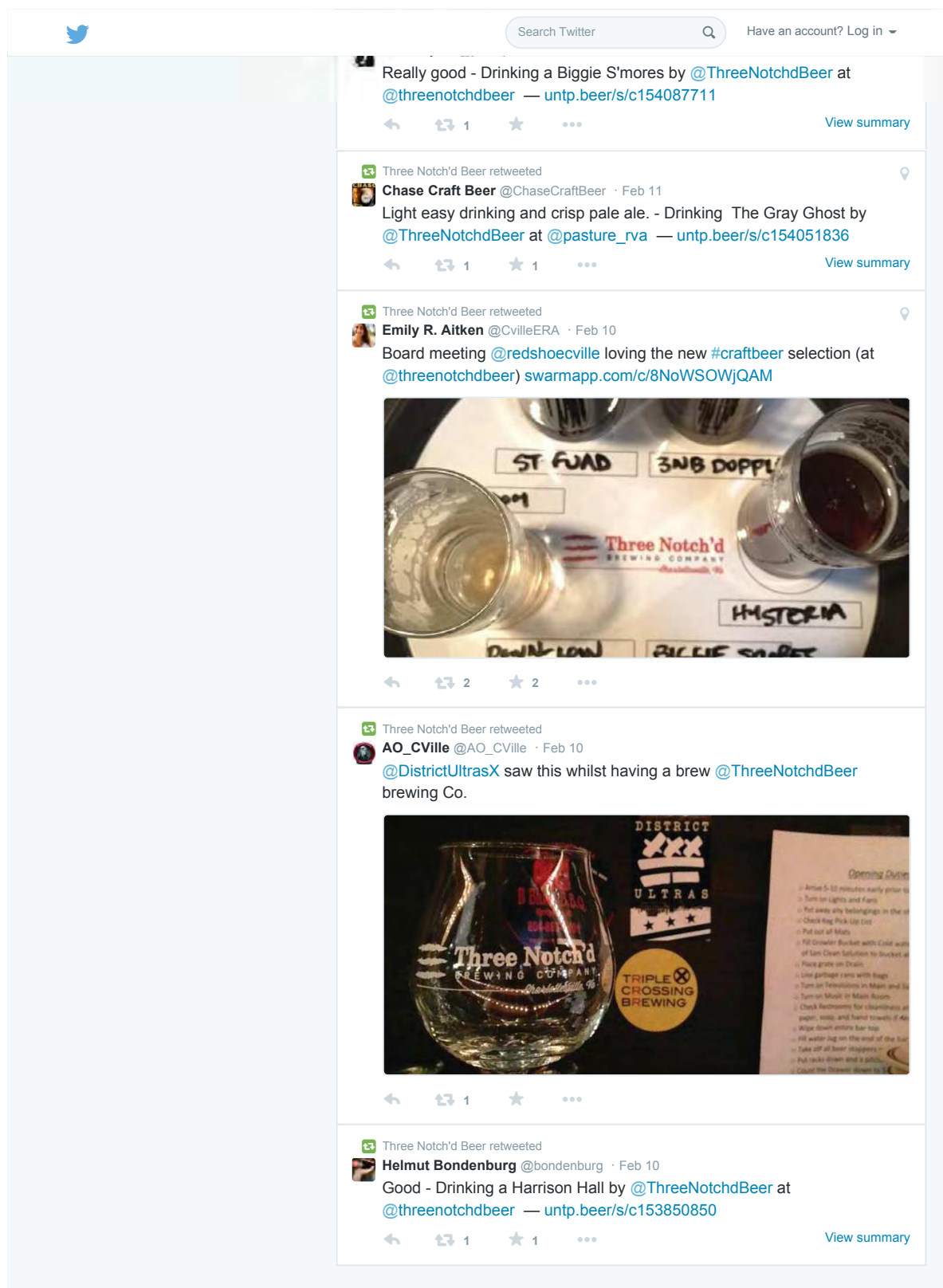
← 1 1 ...

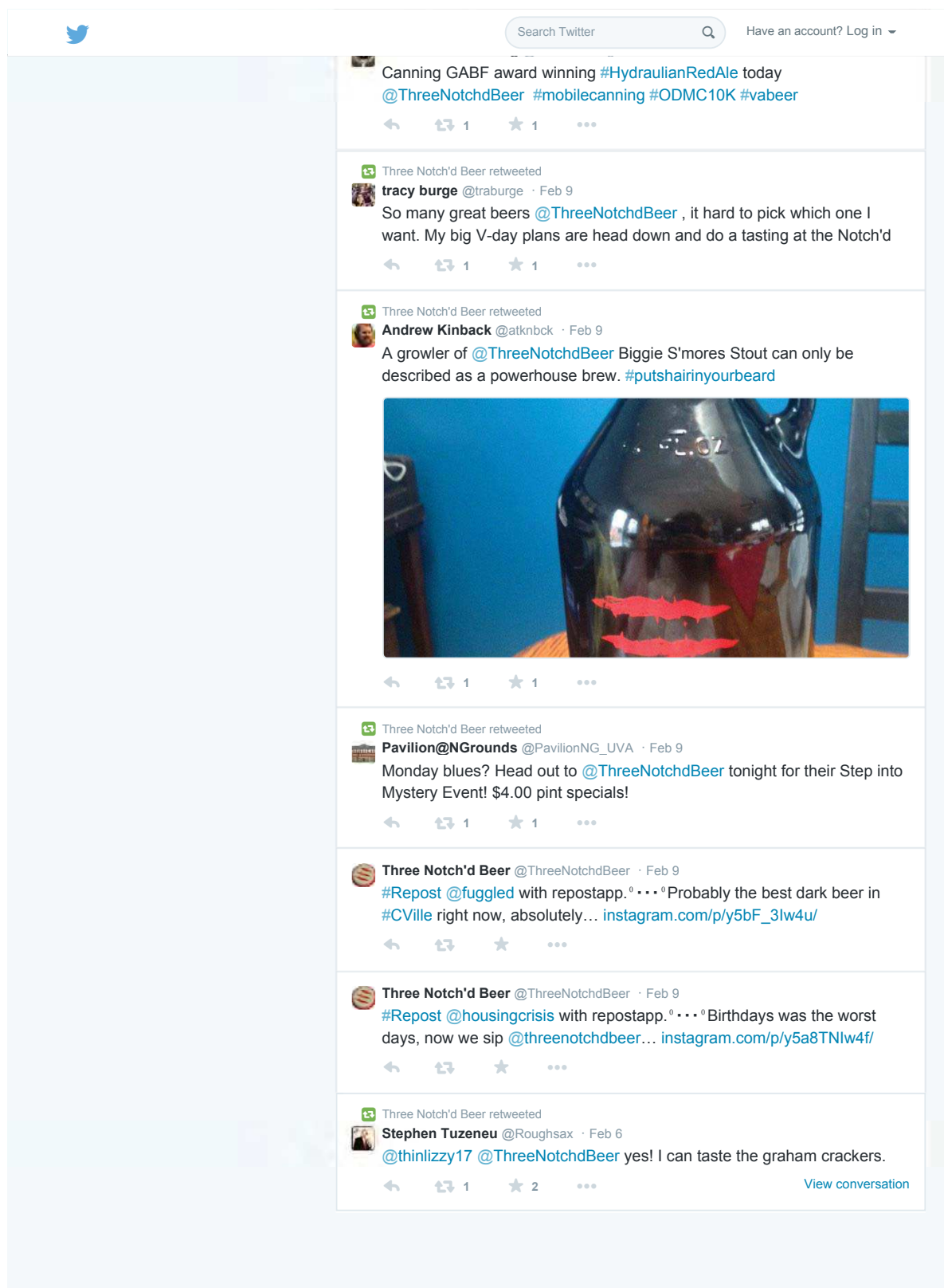


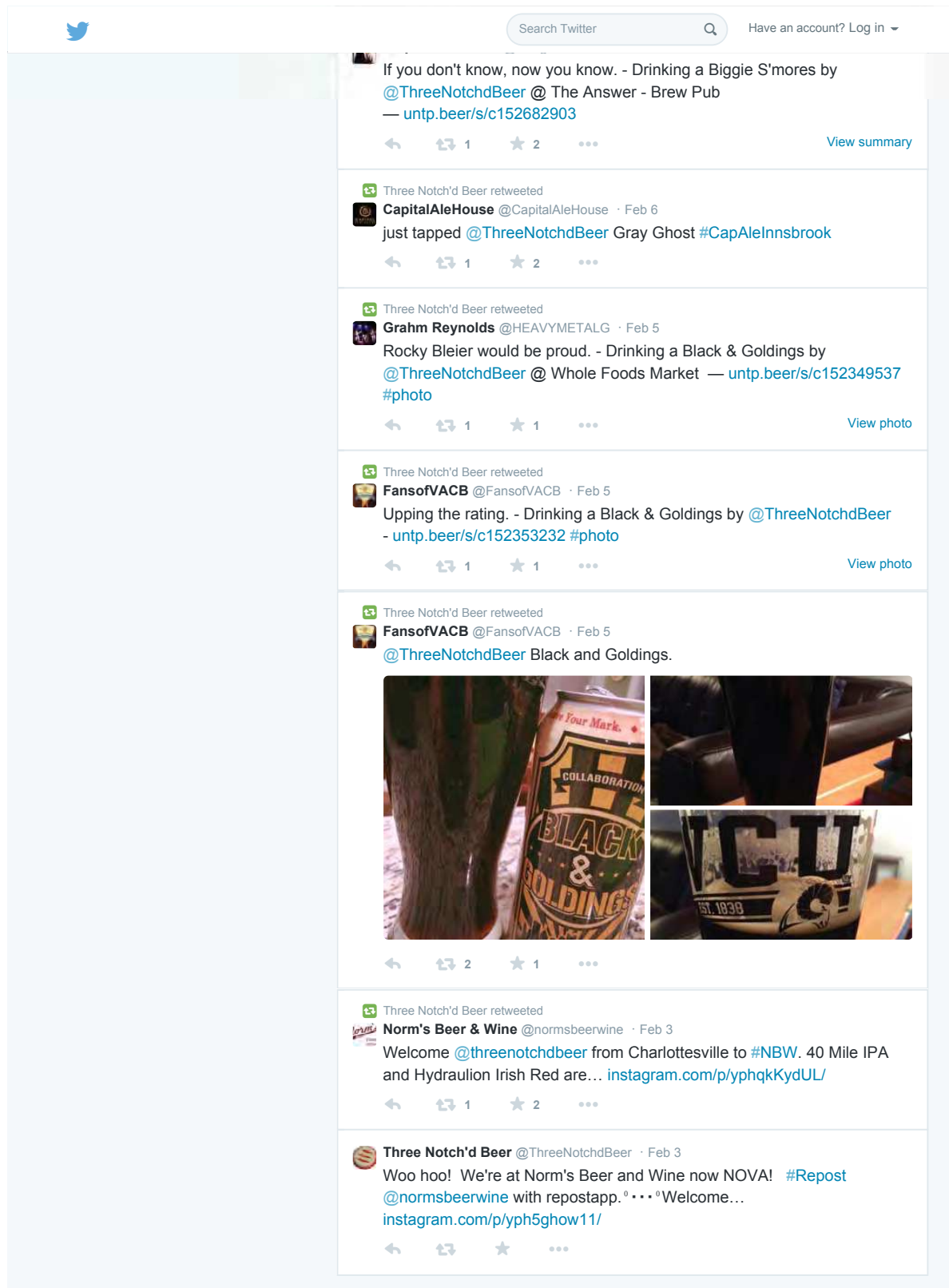


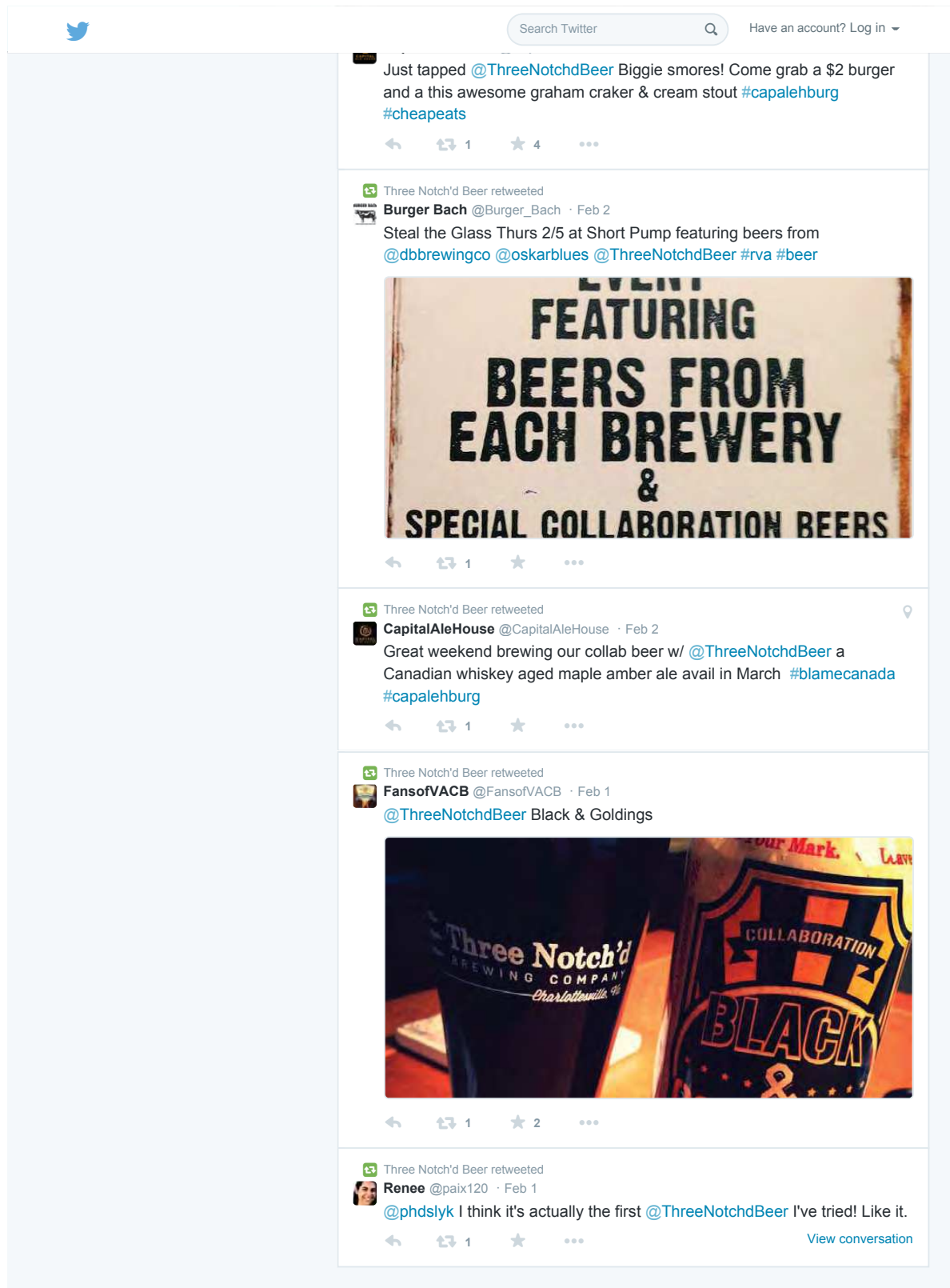


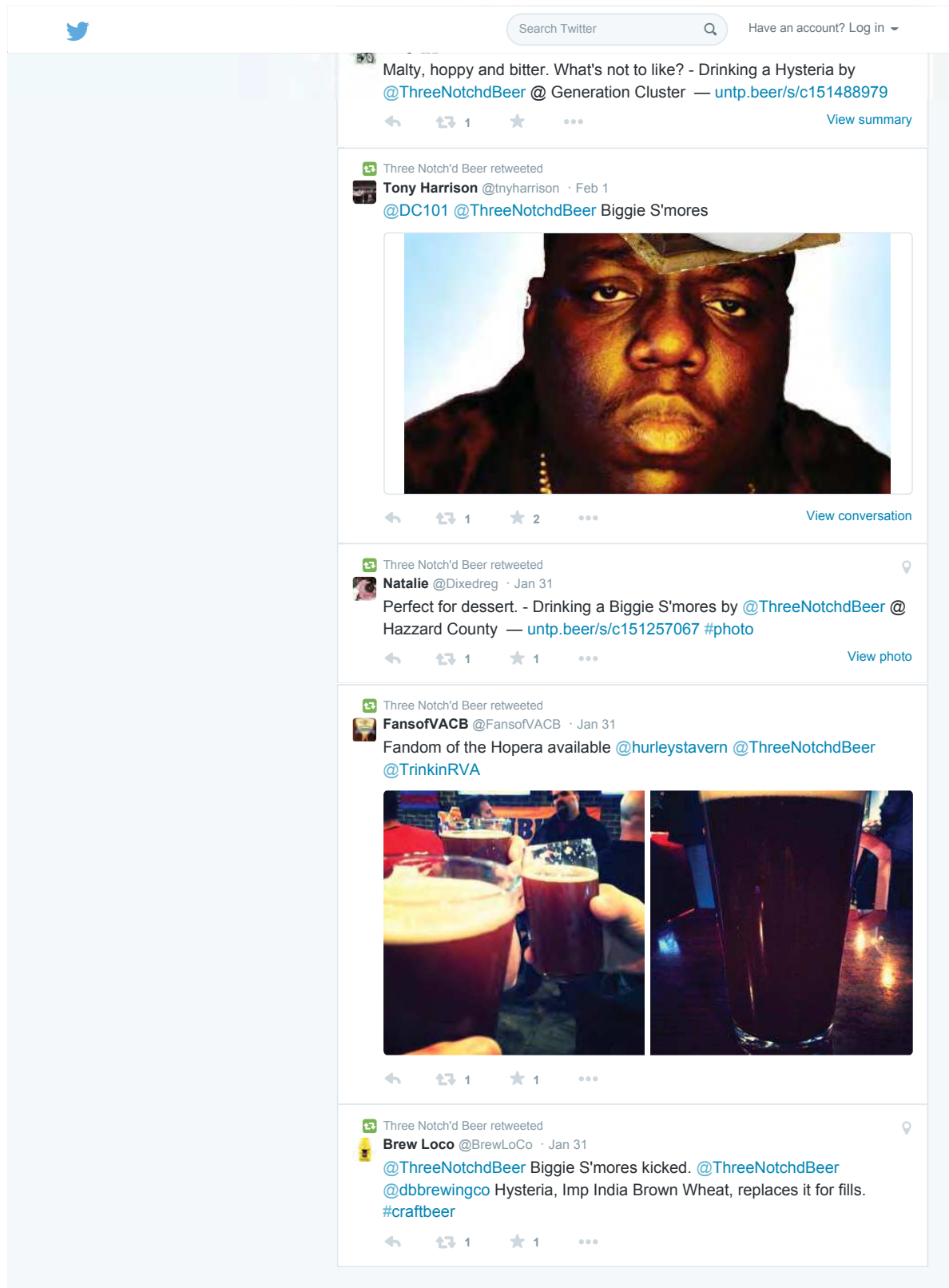


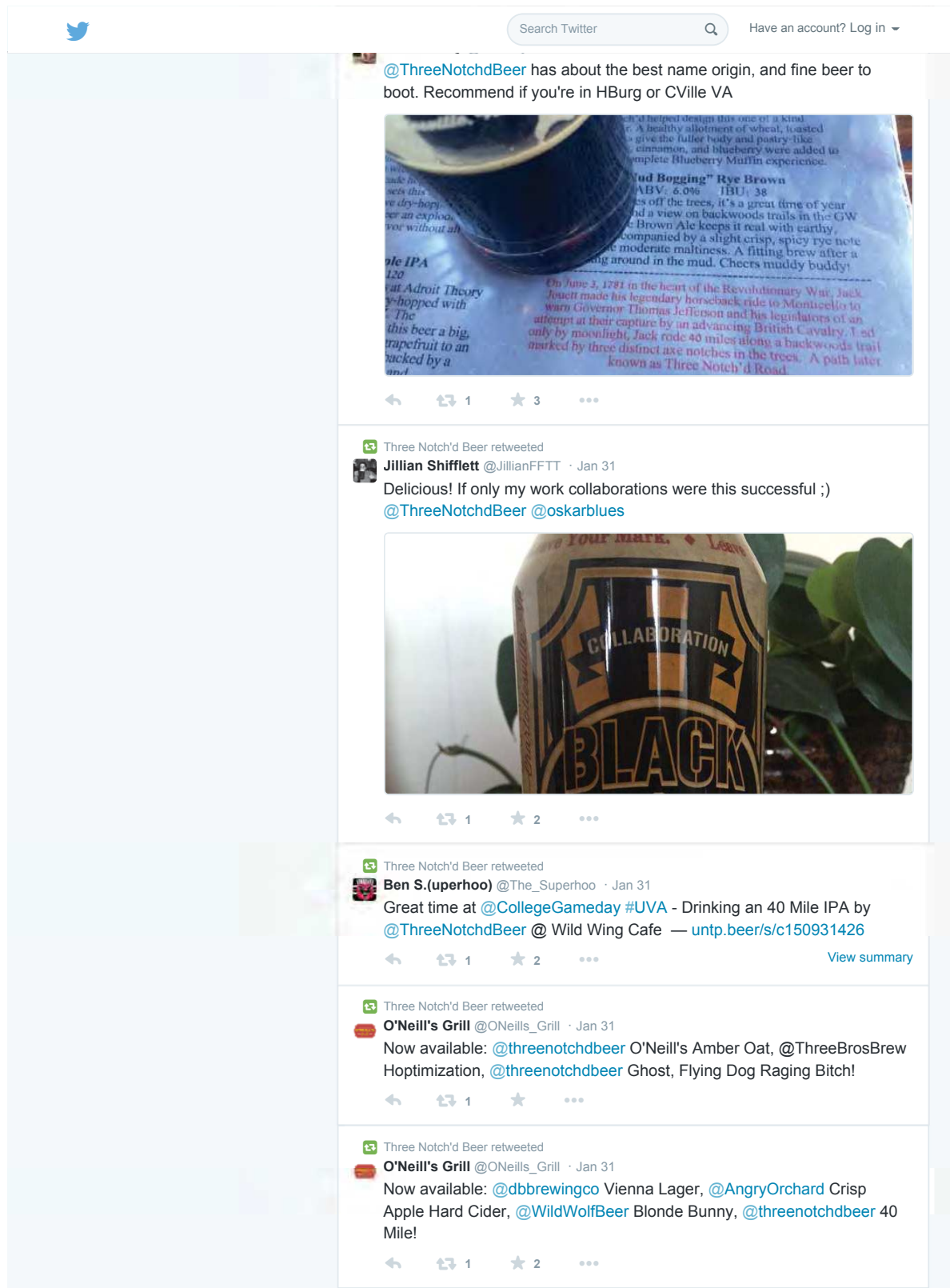


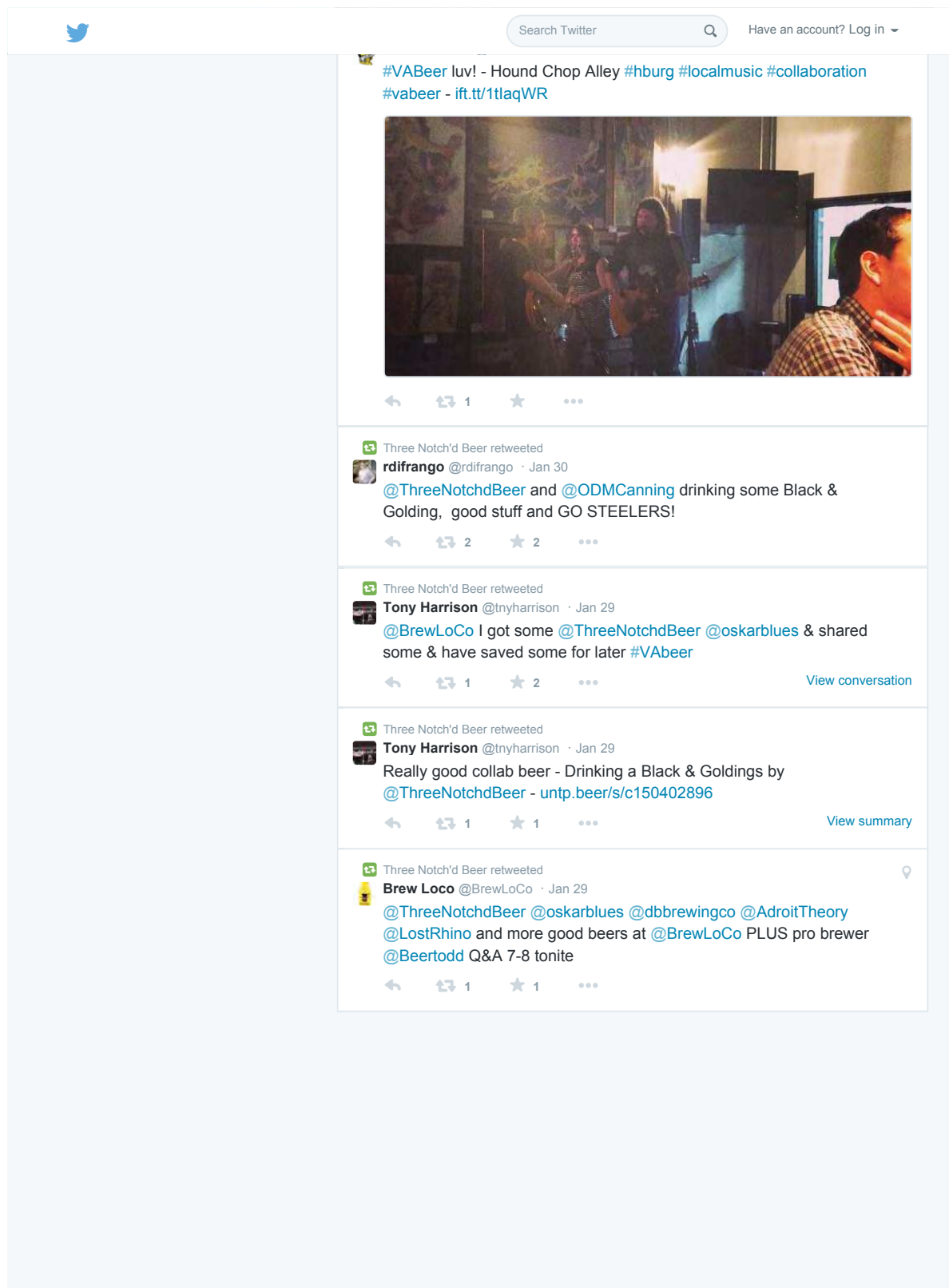


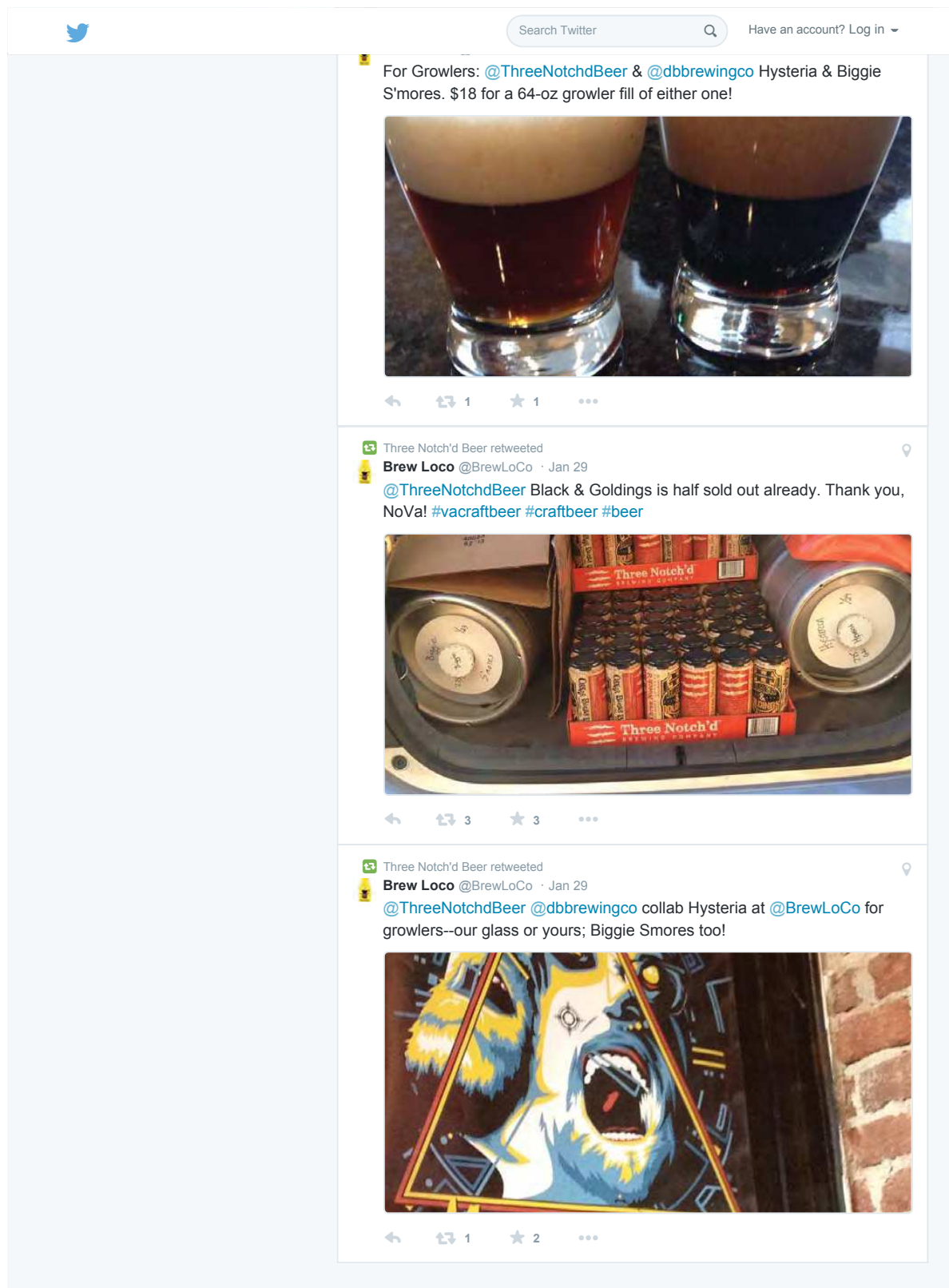


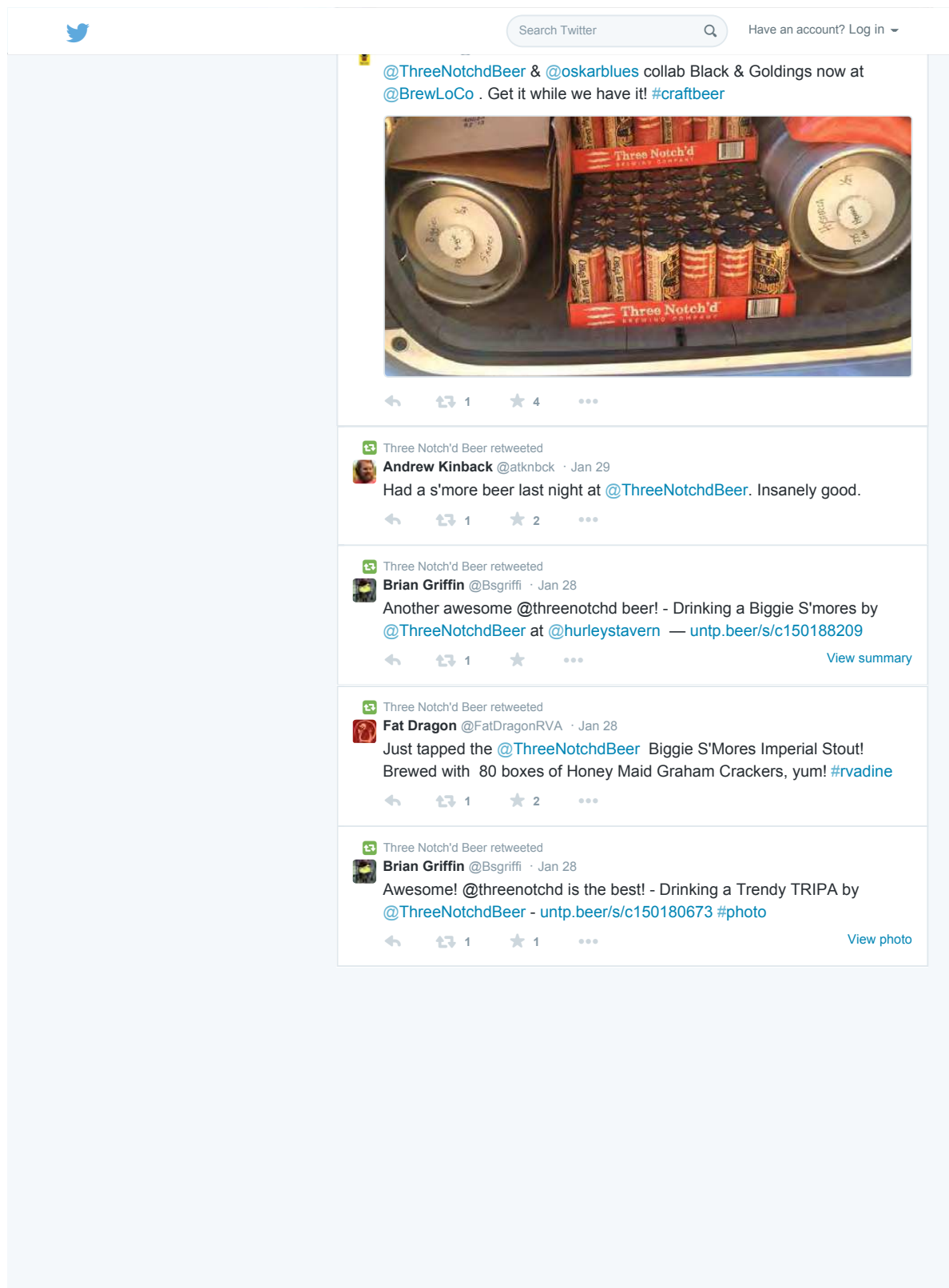


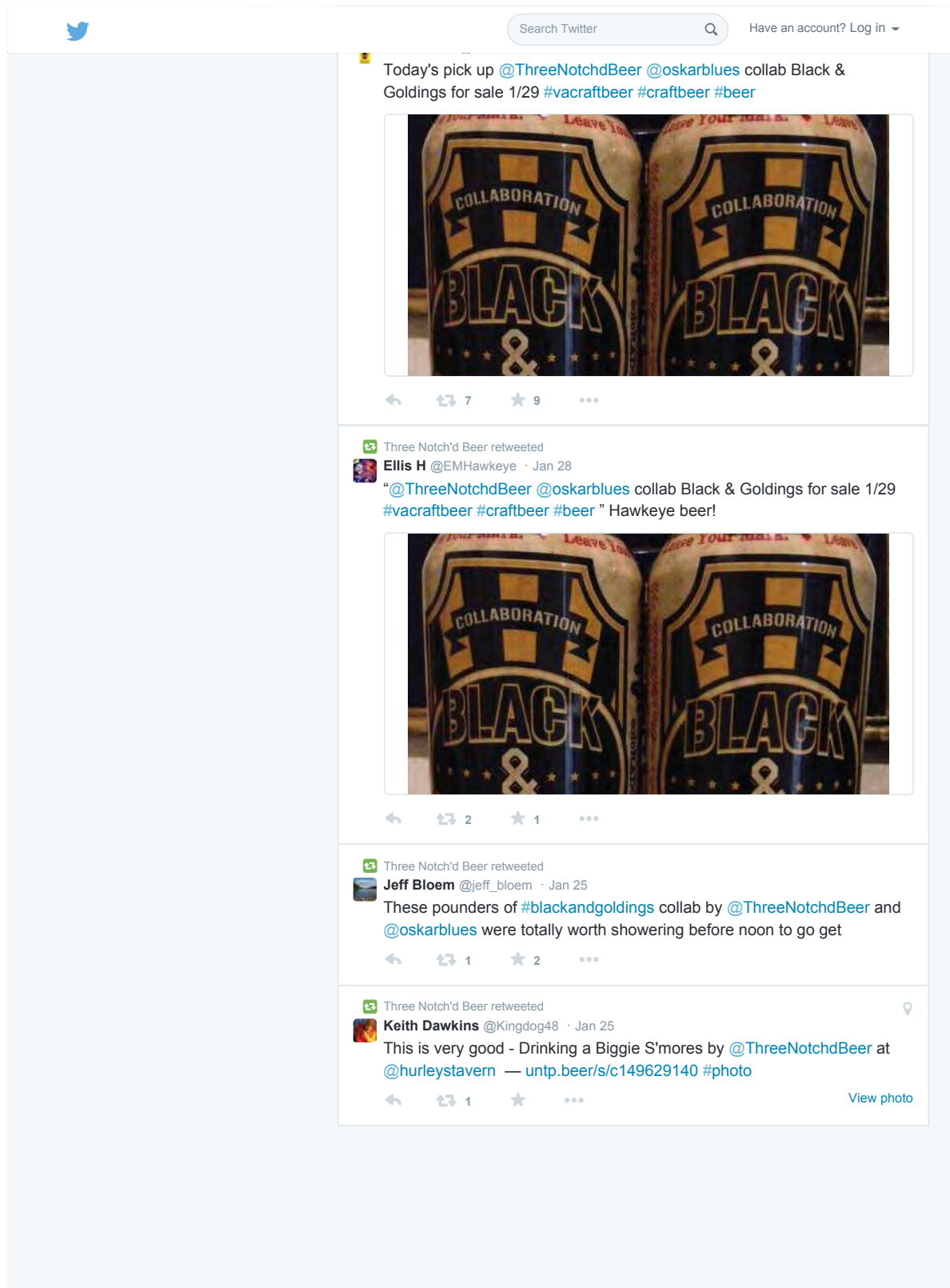


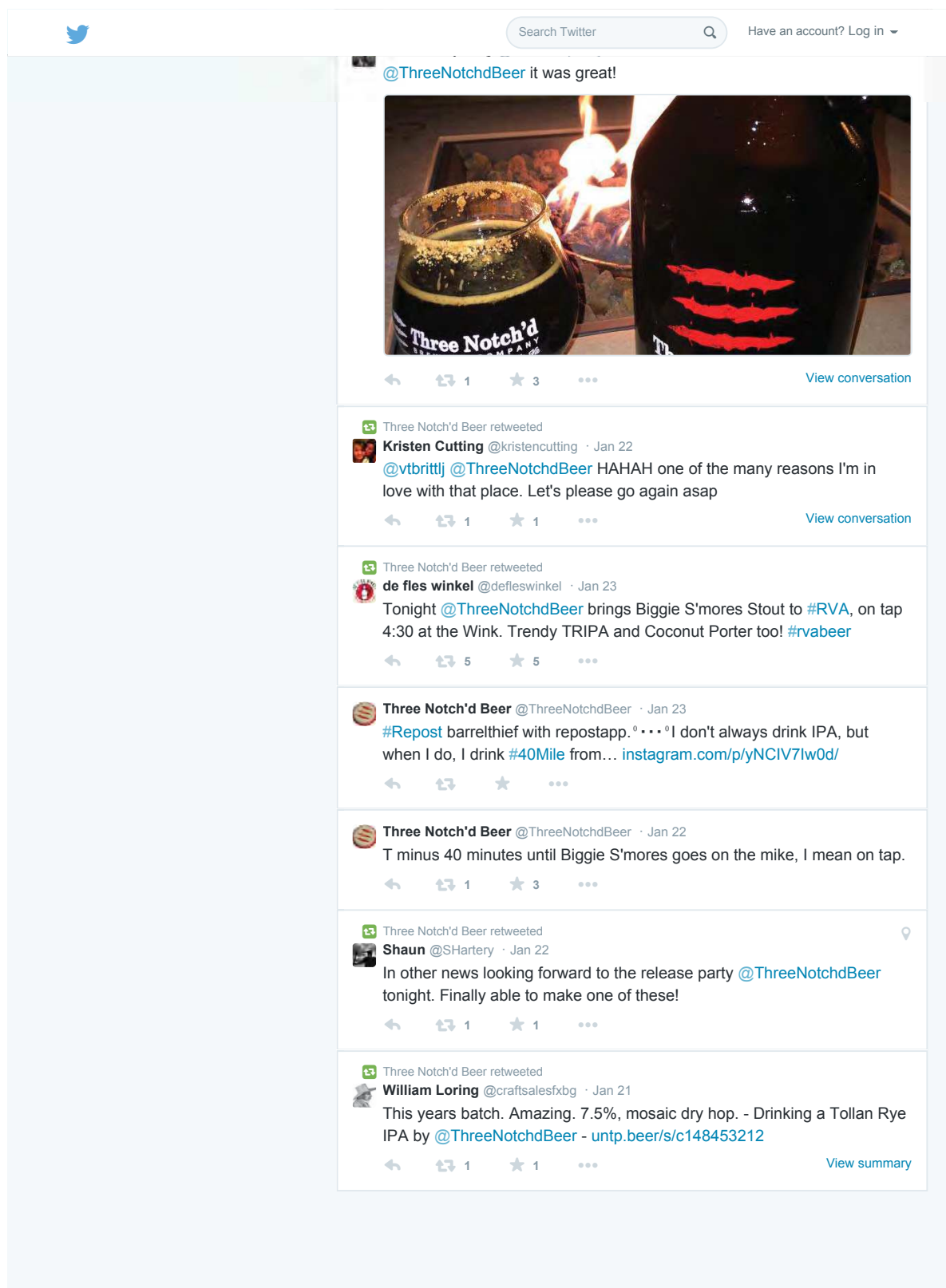


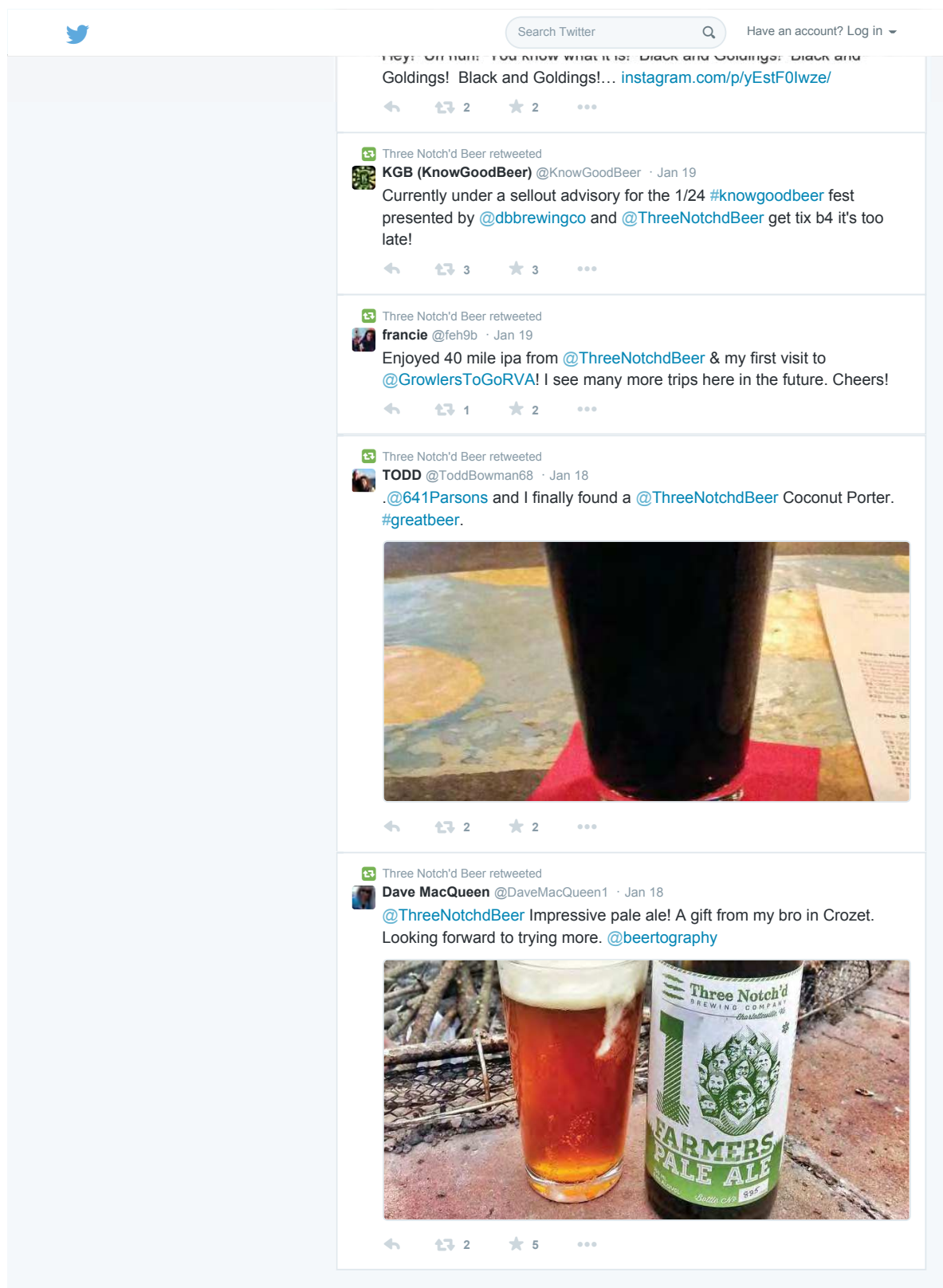


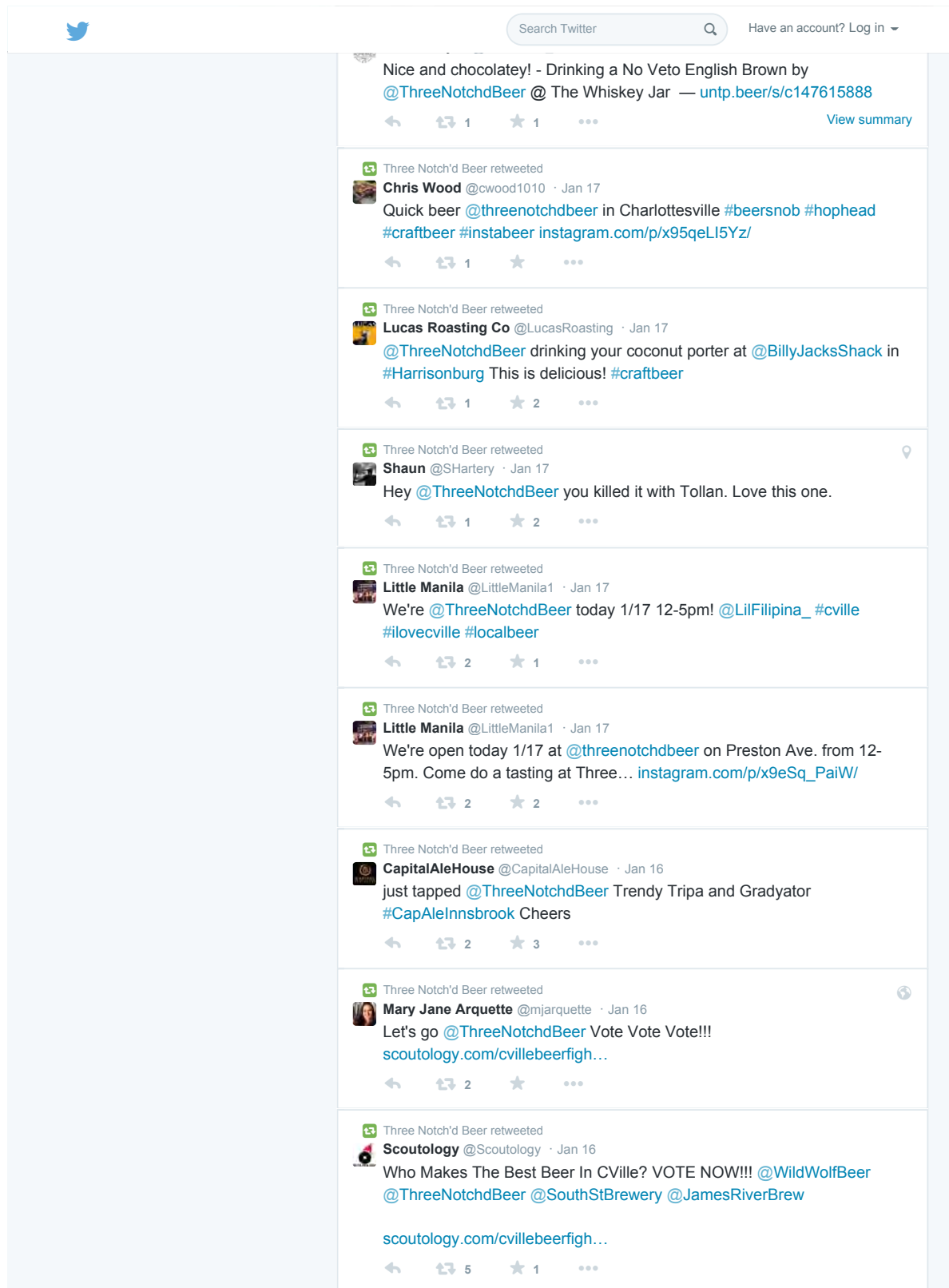


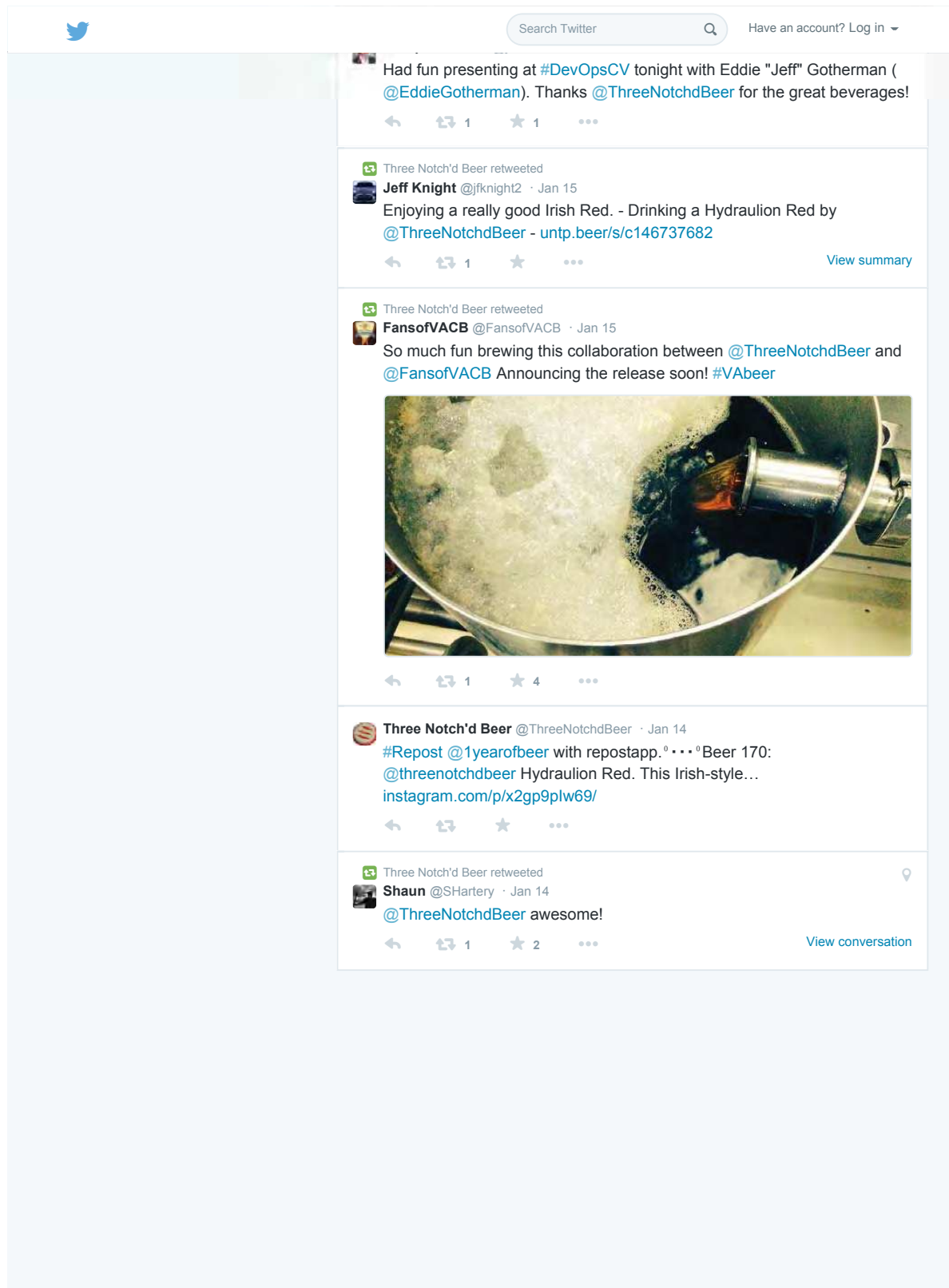


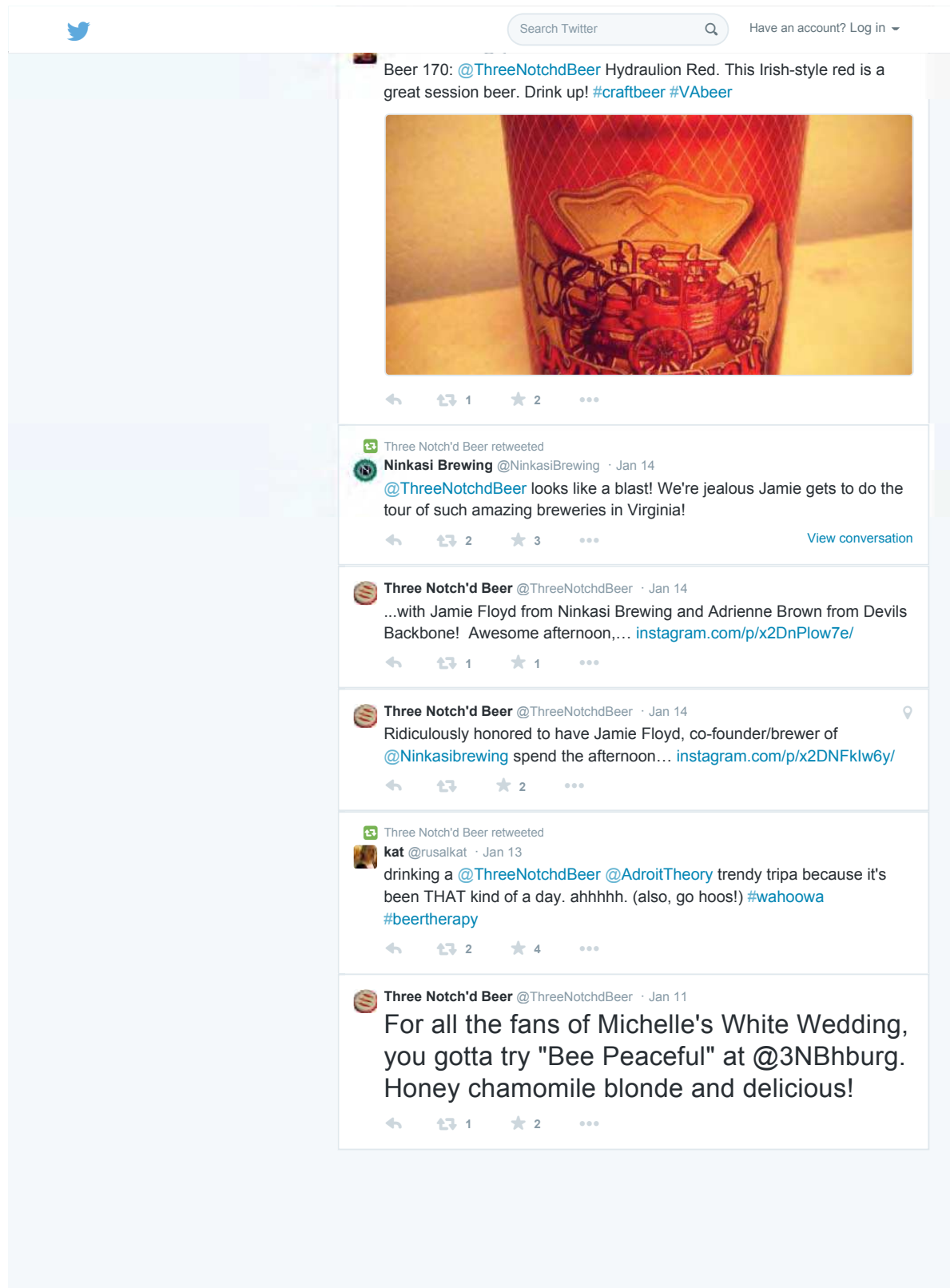


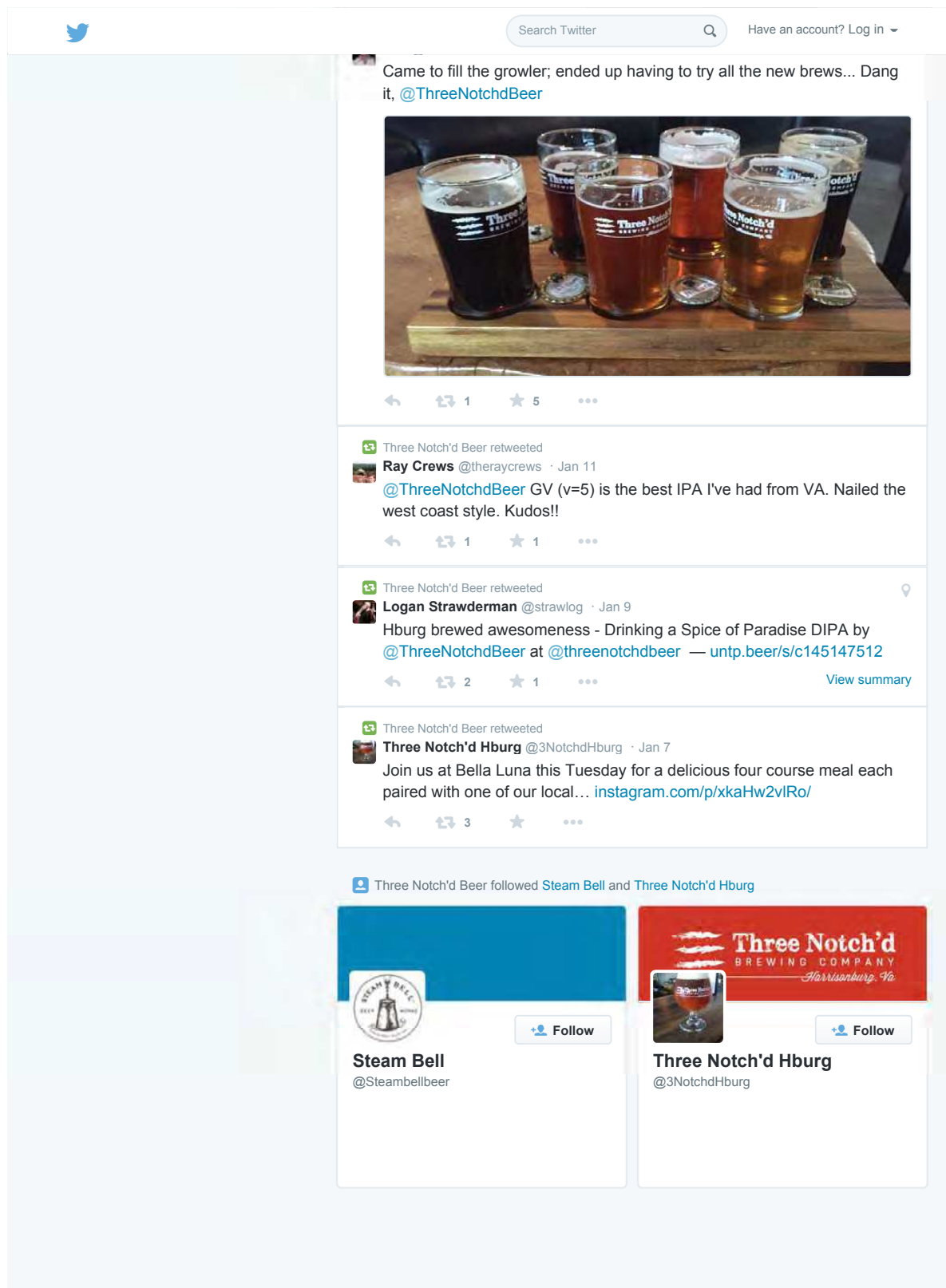


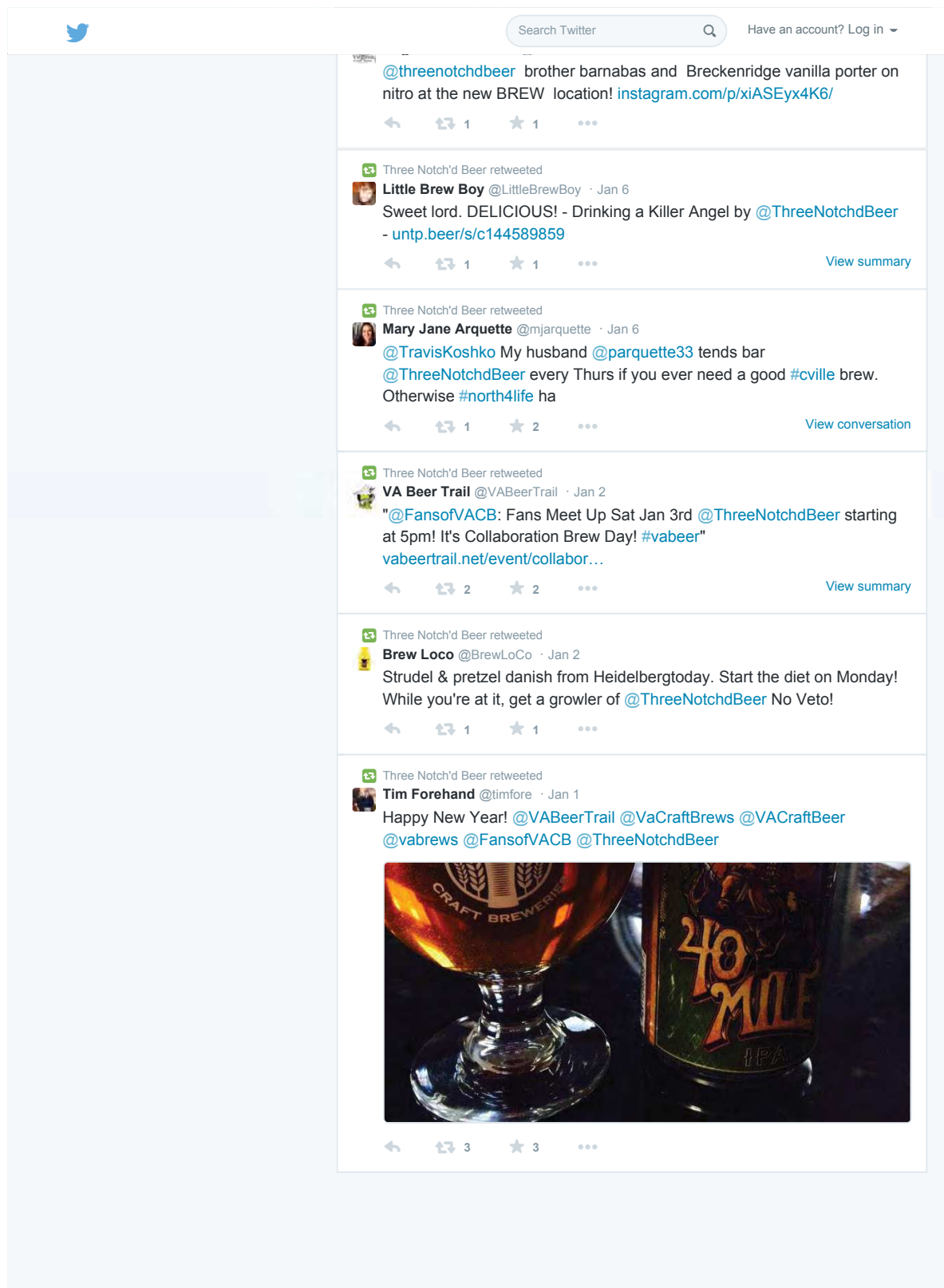




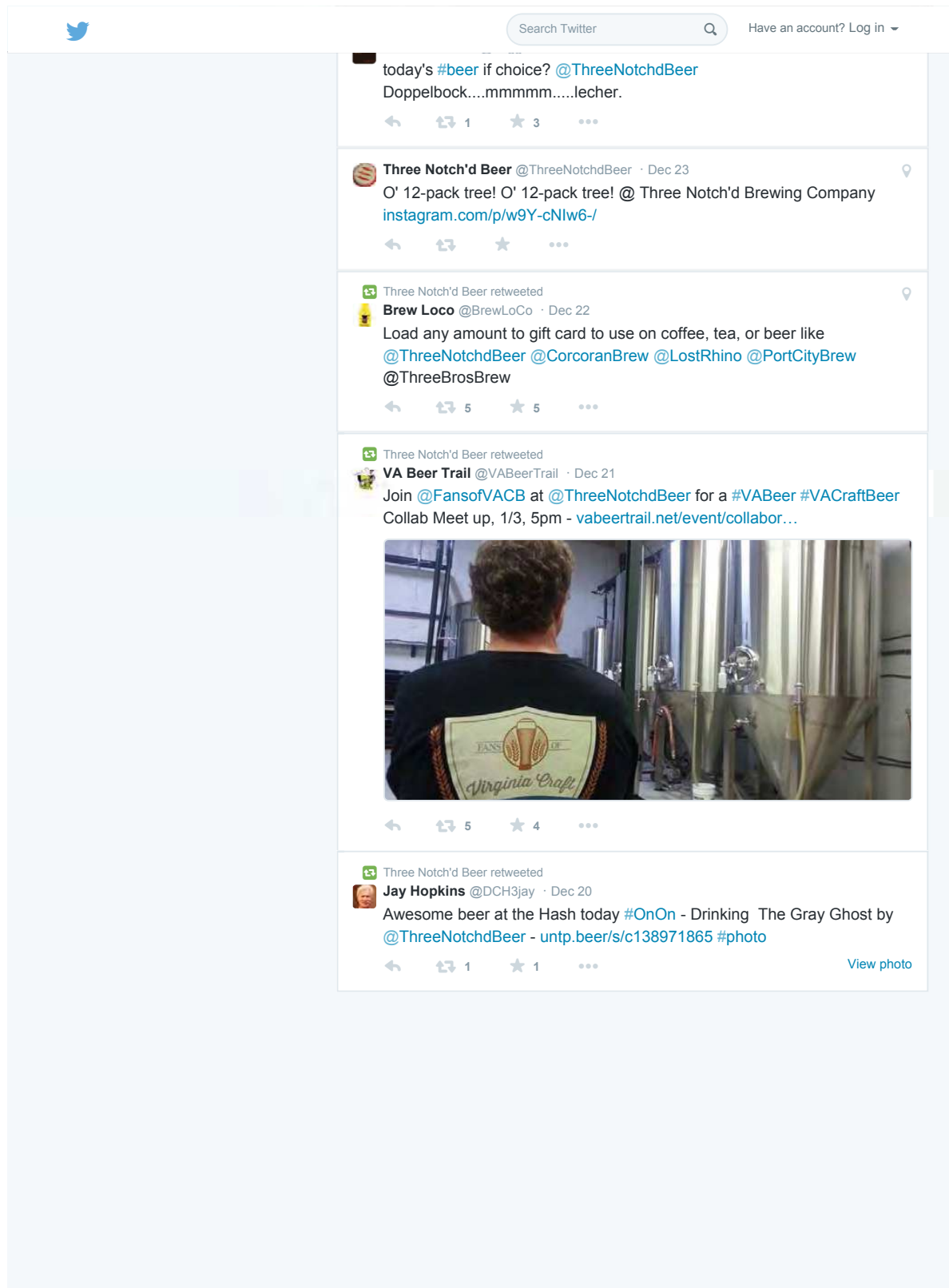


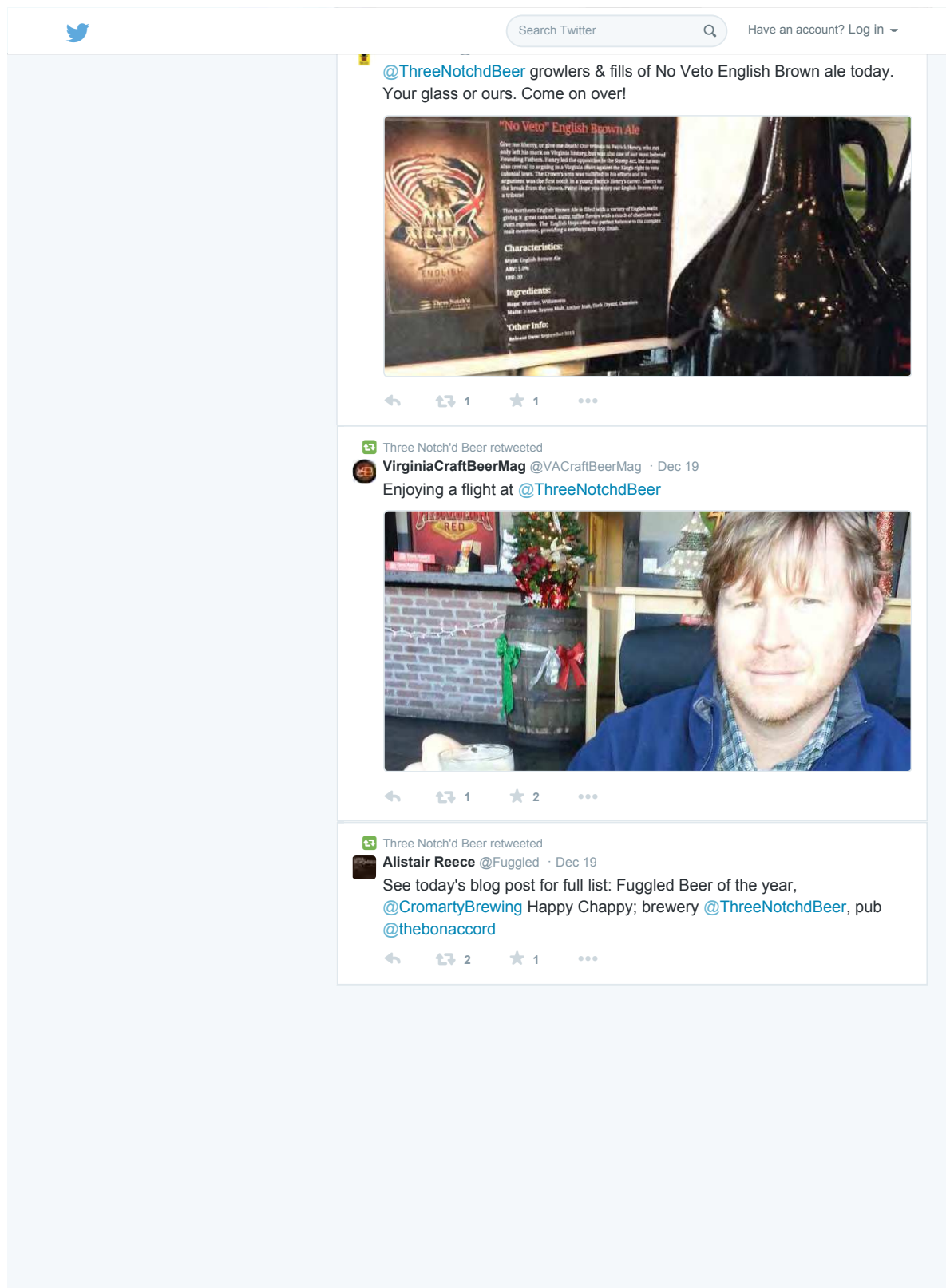


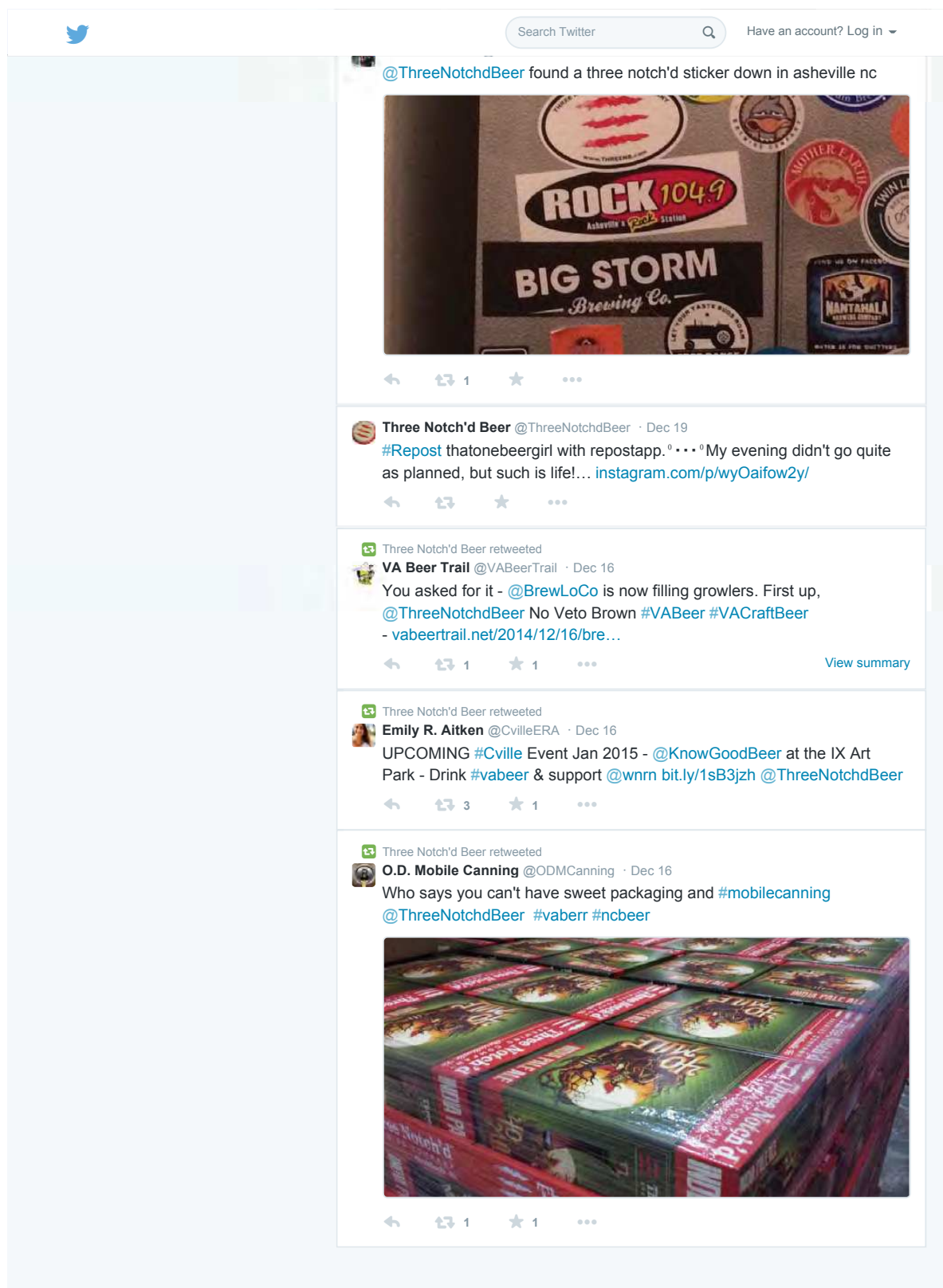


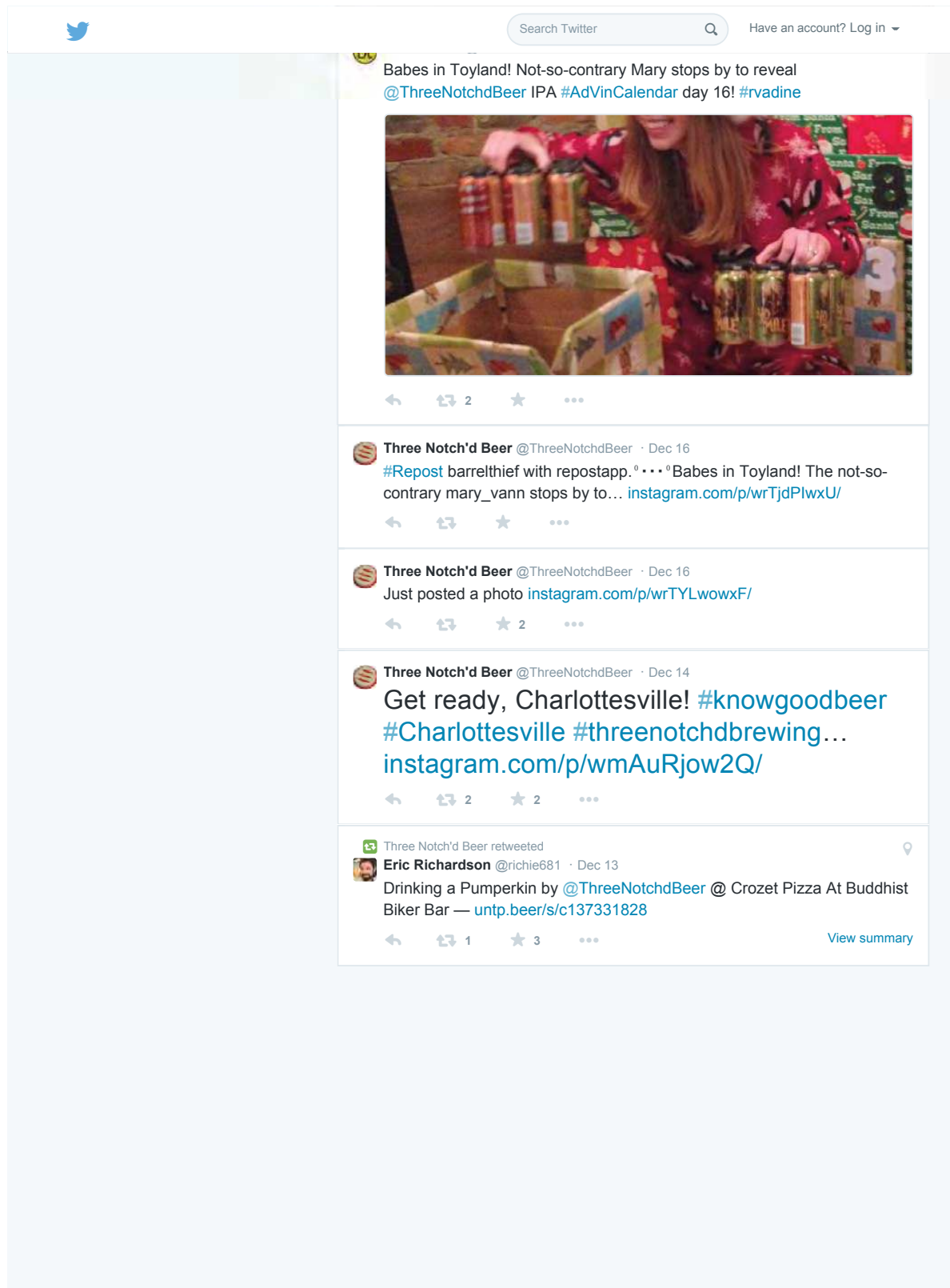


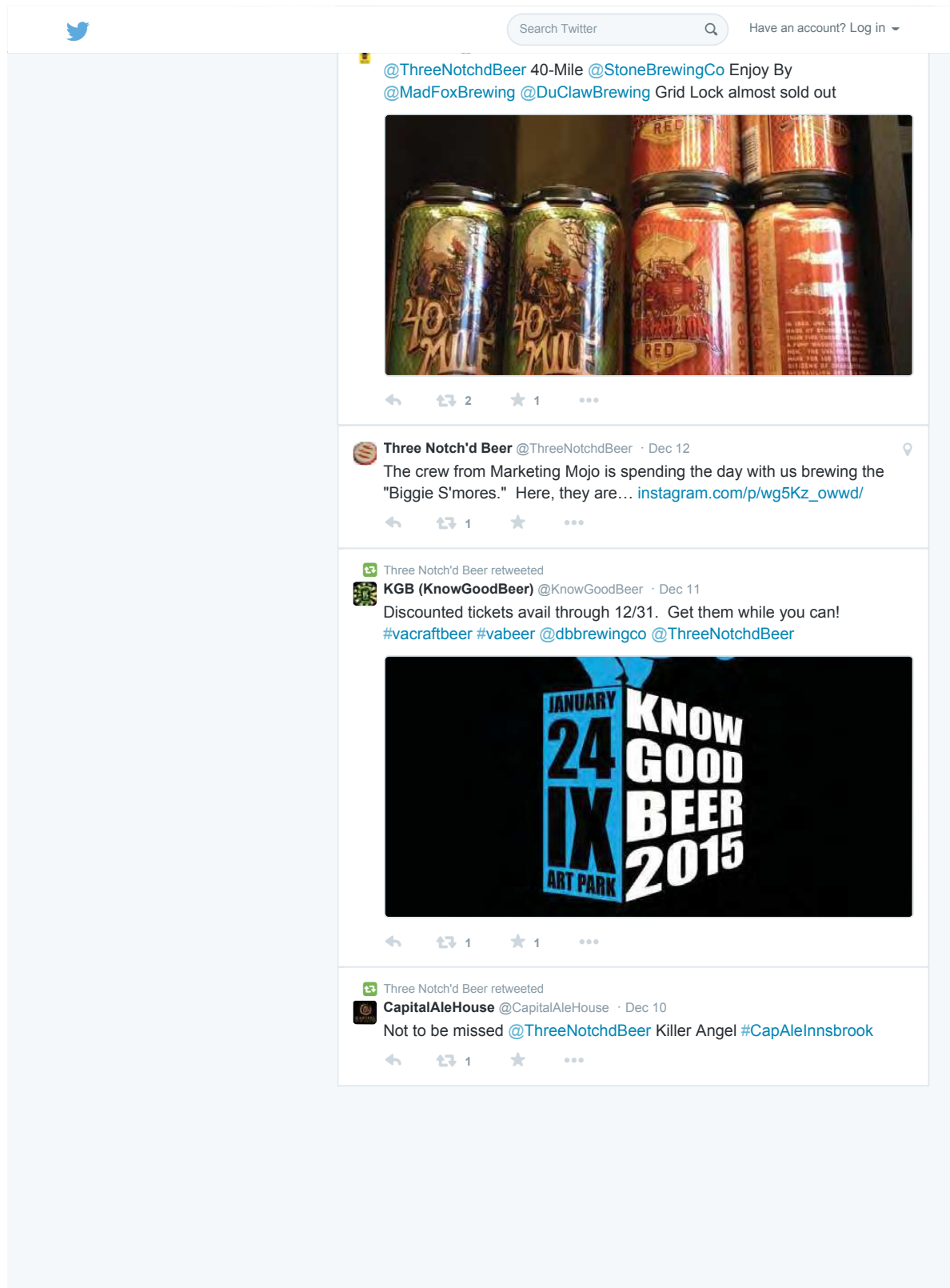


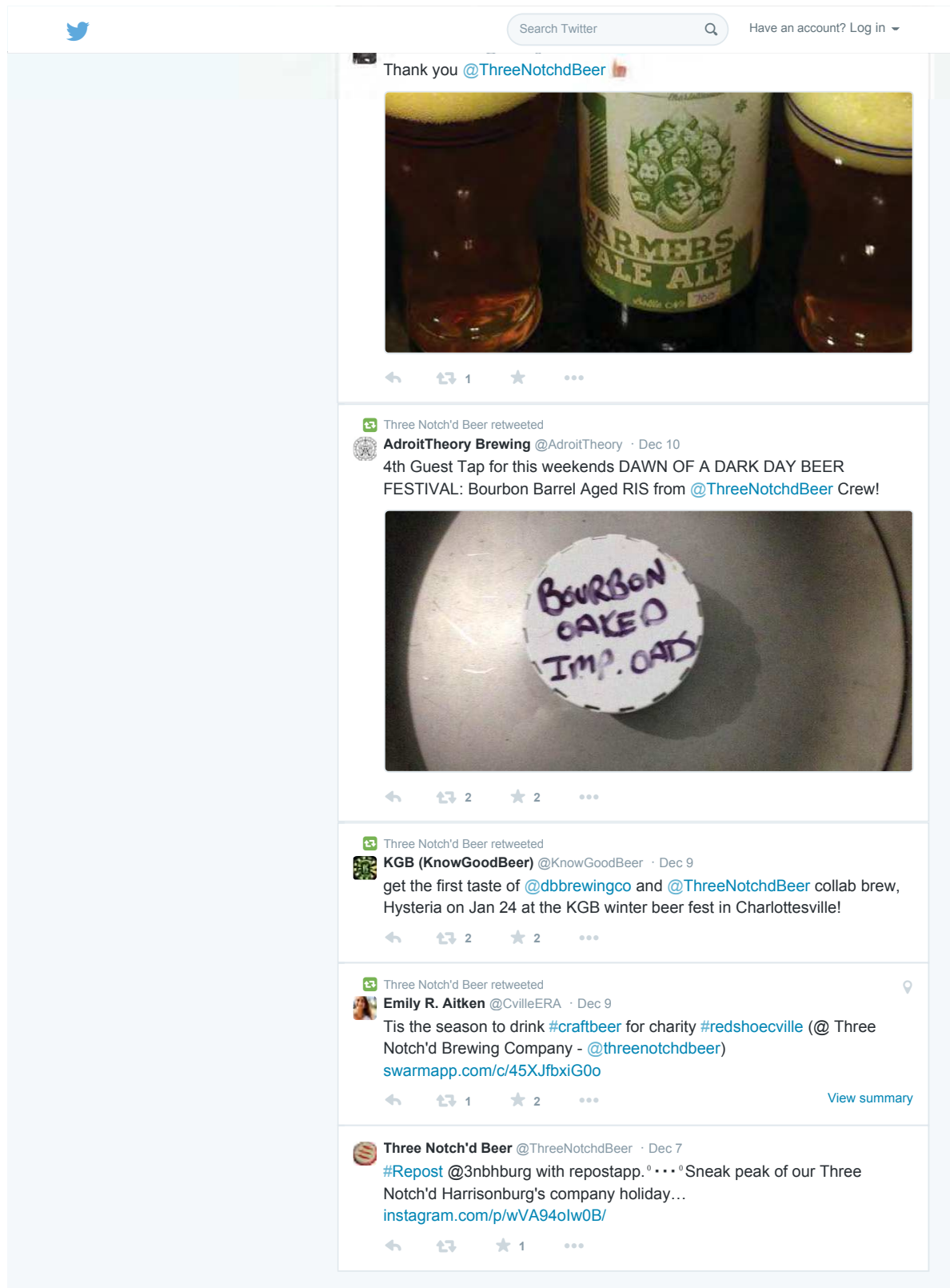


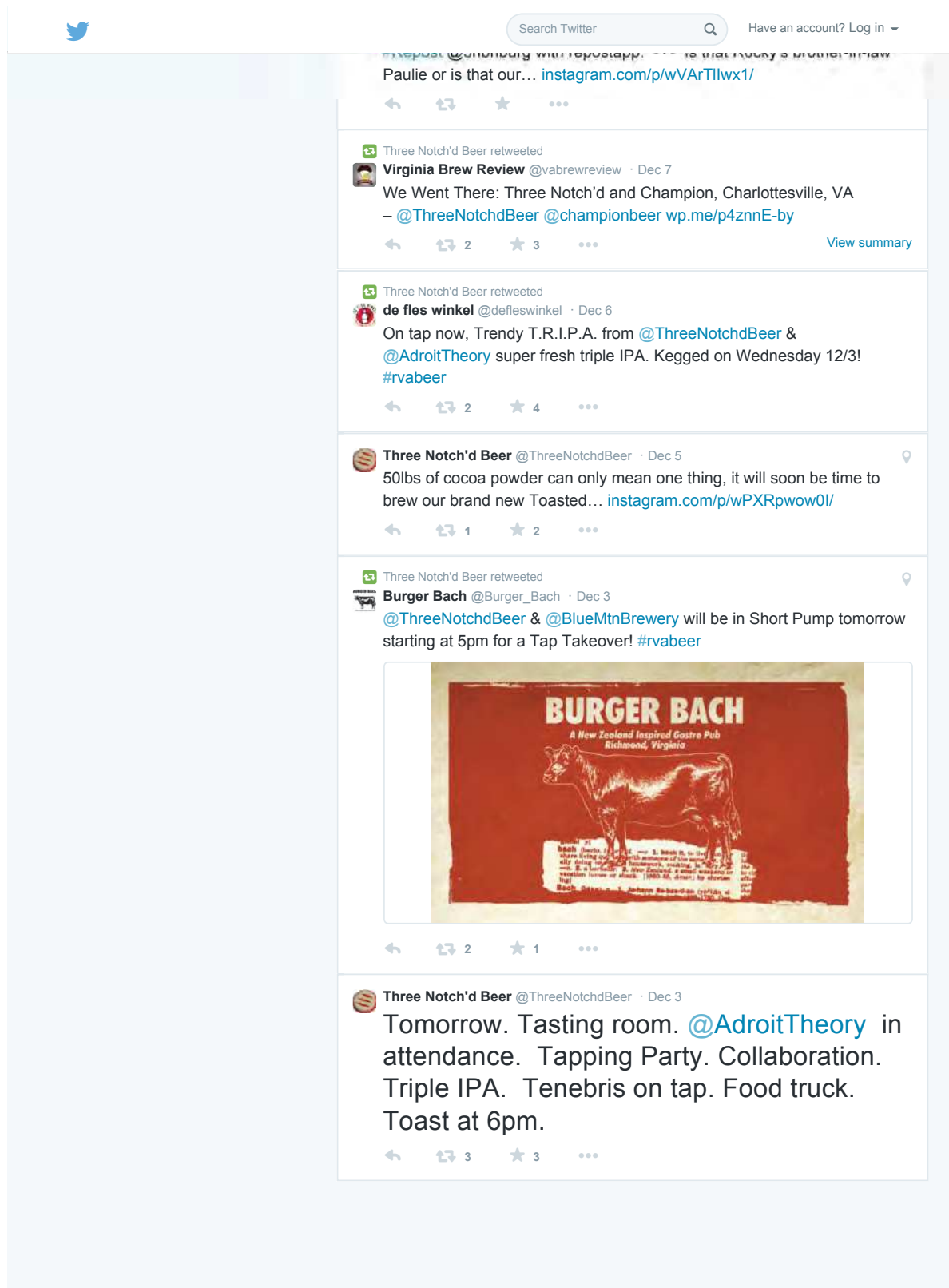


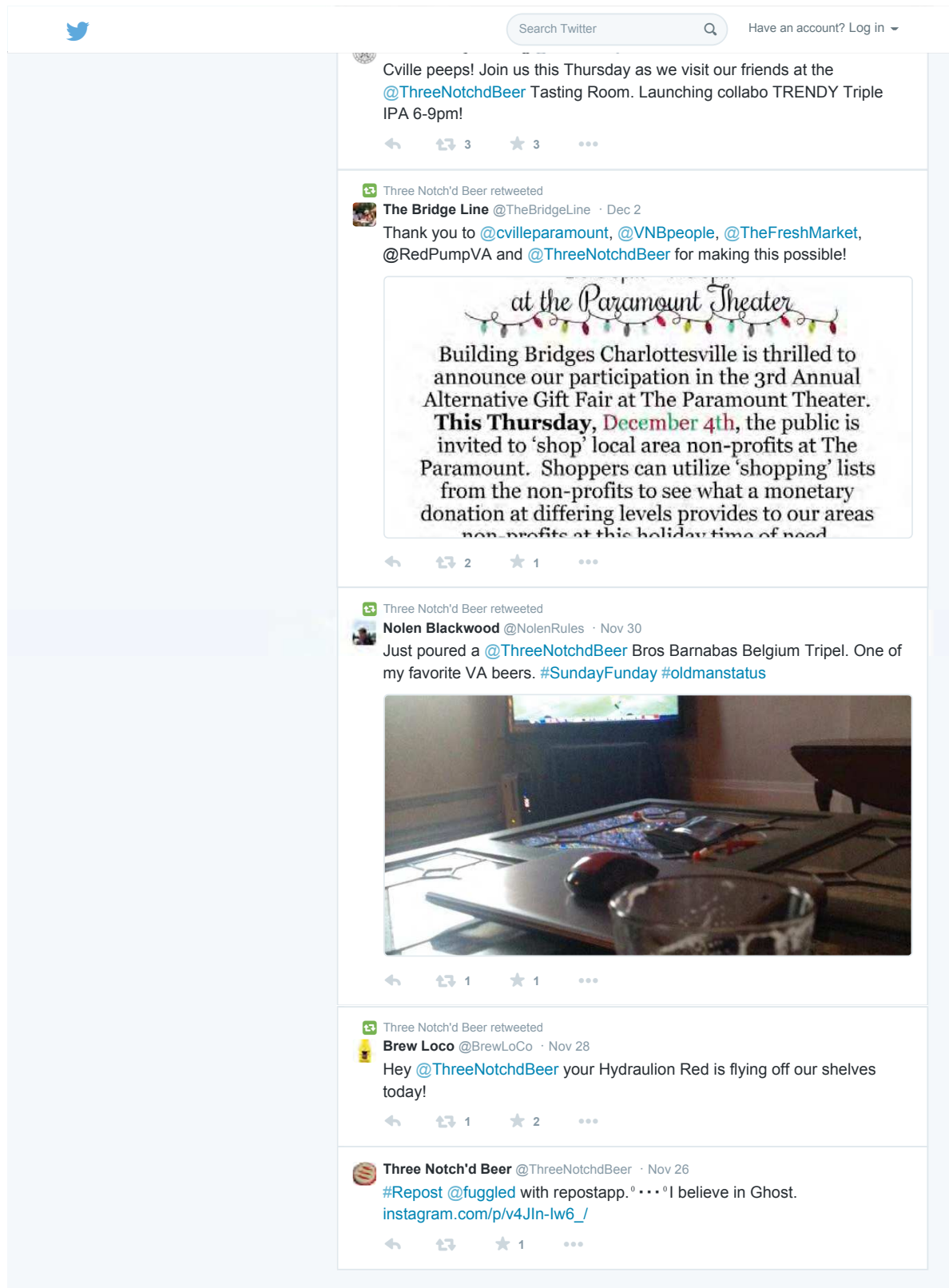




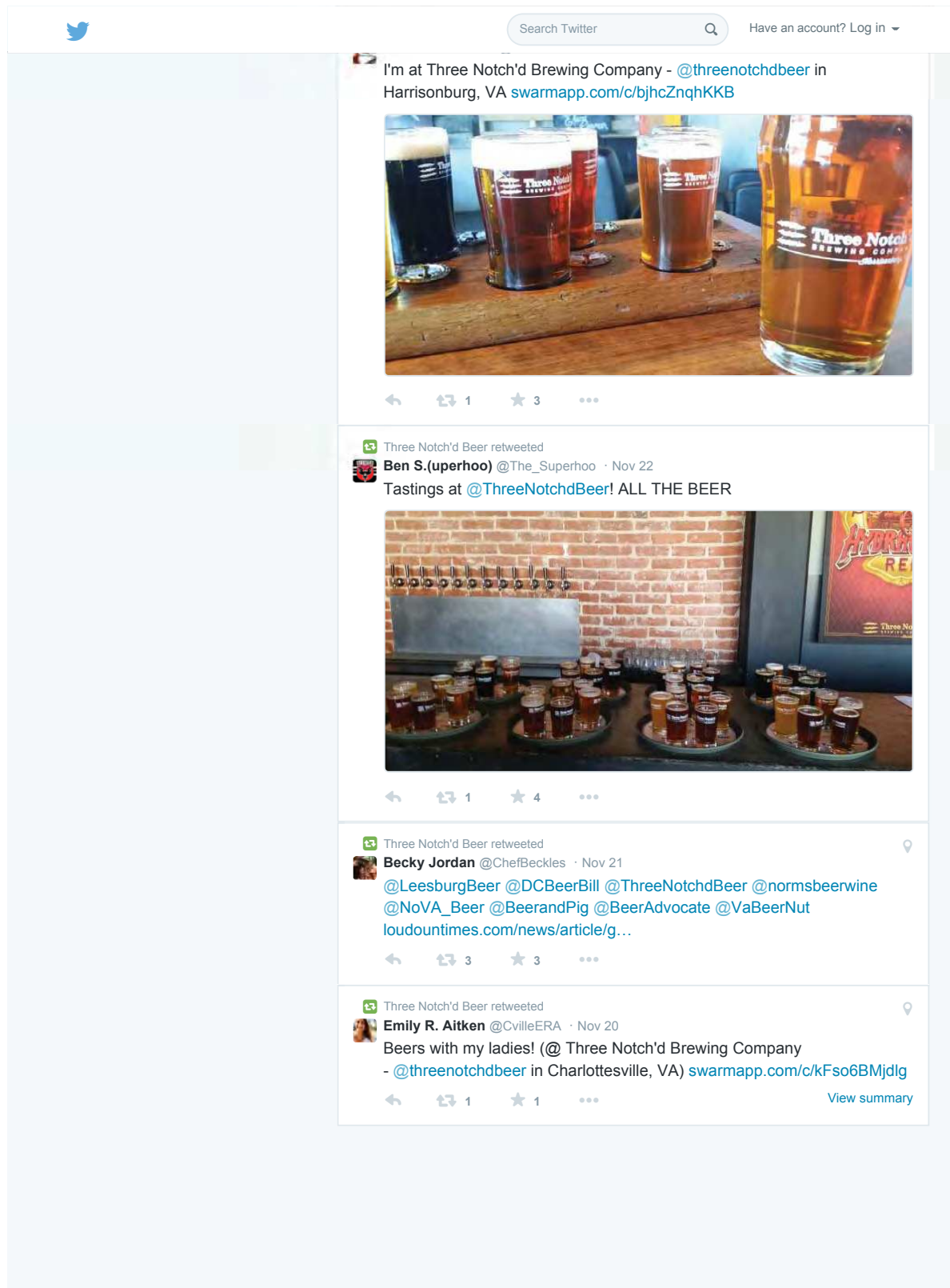


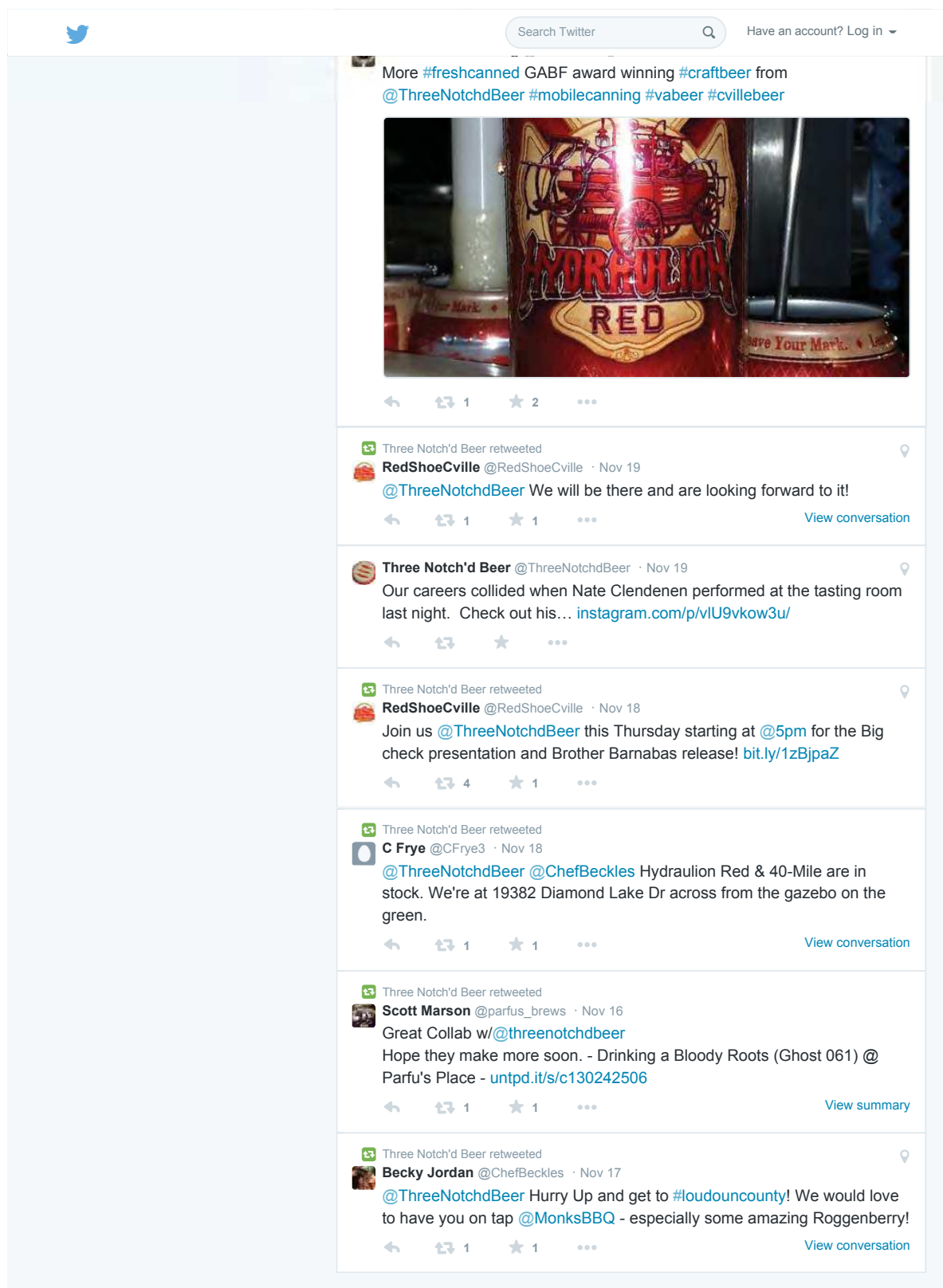


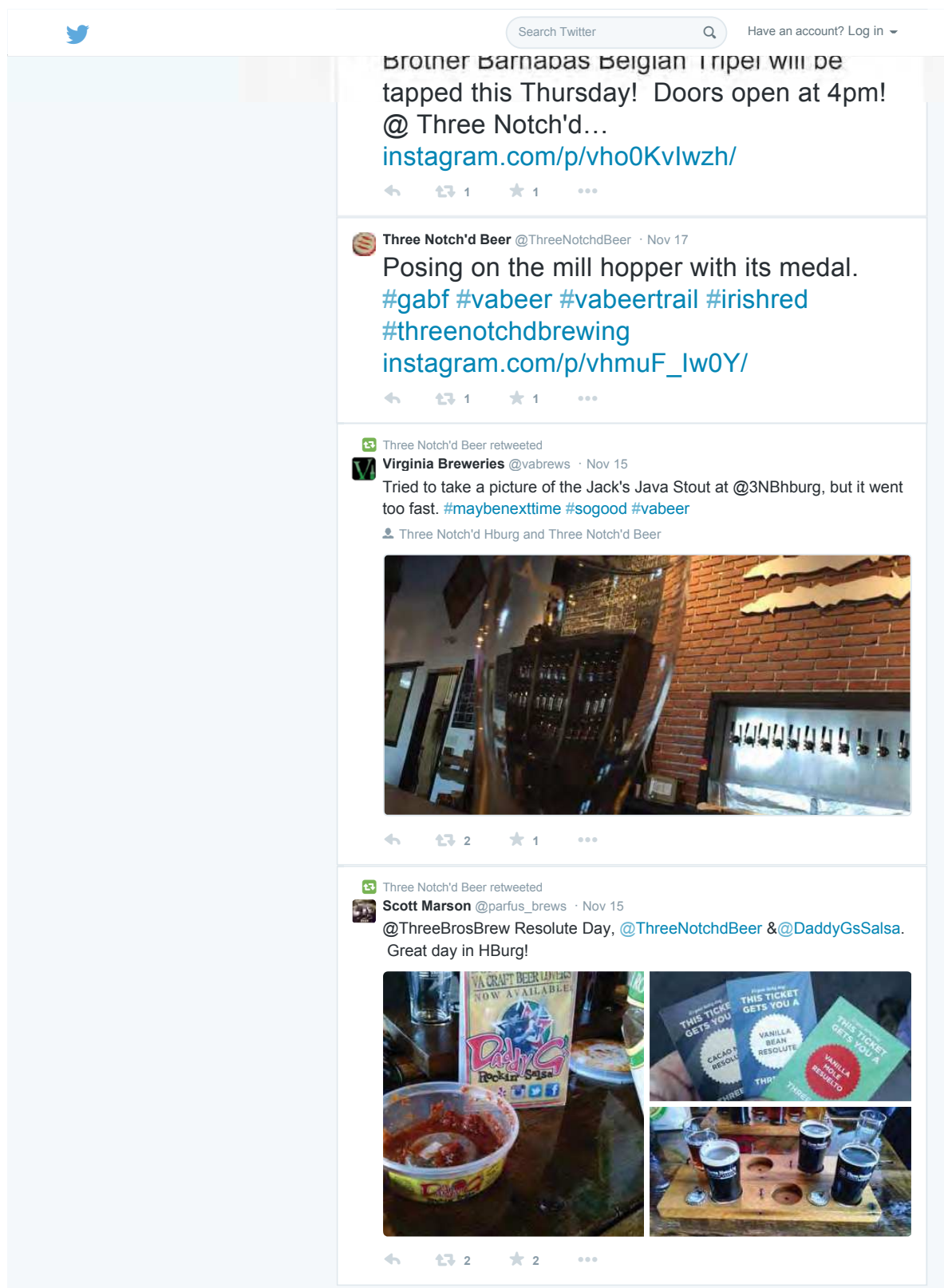


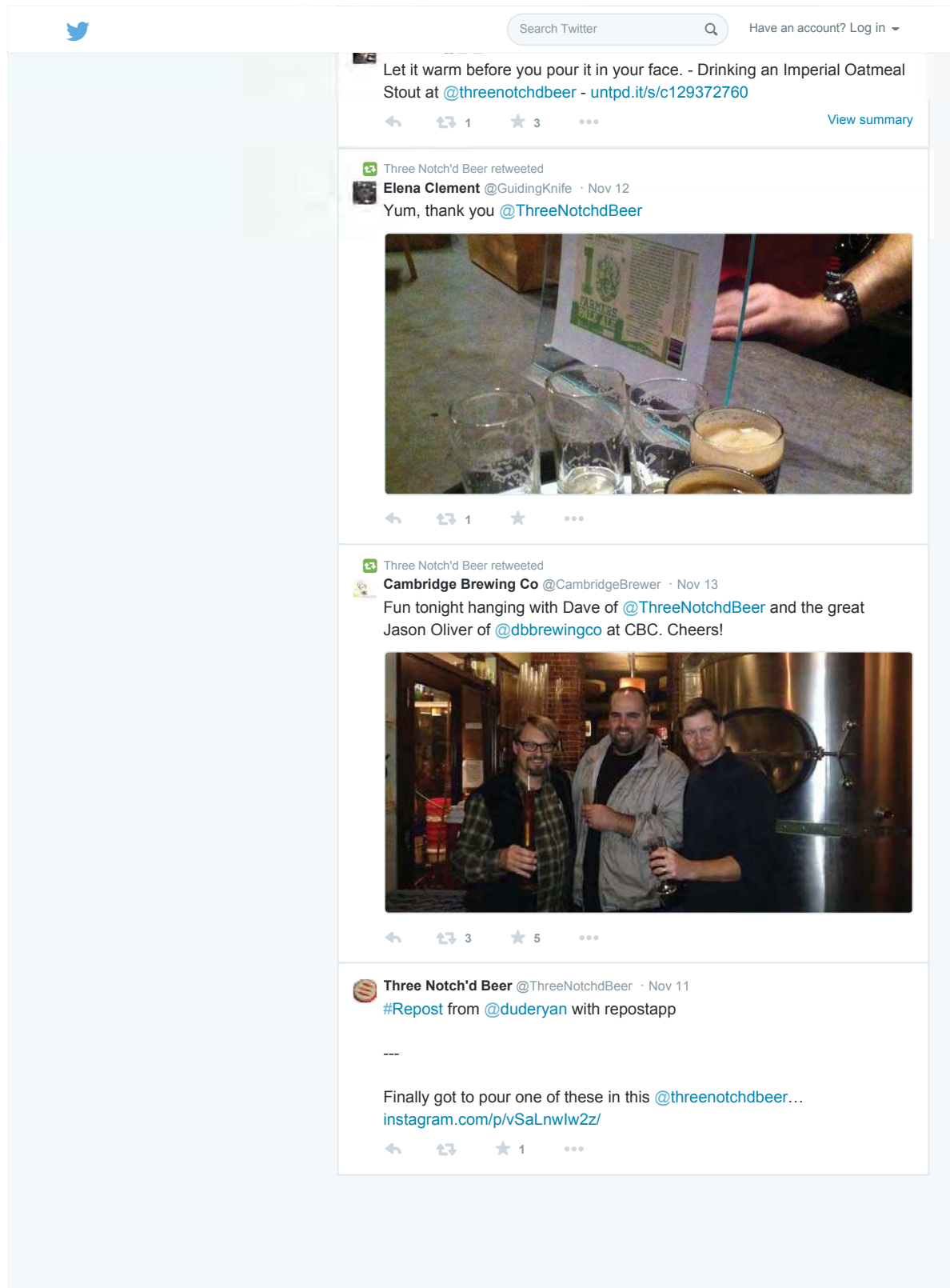


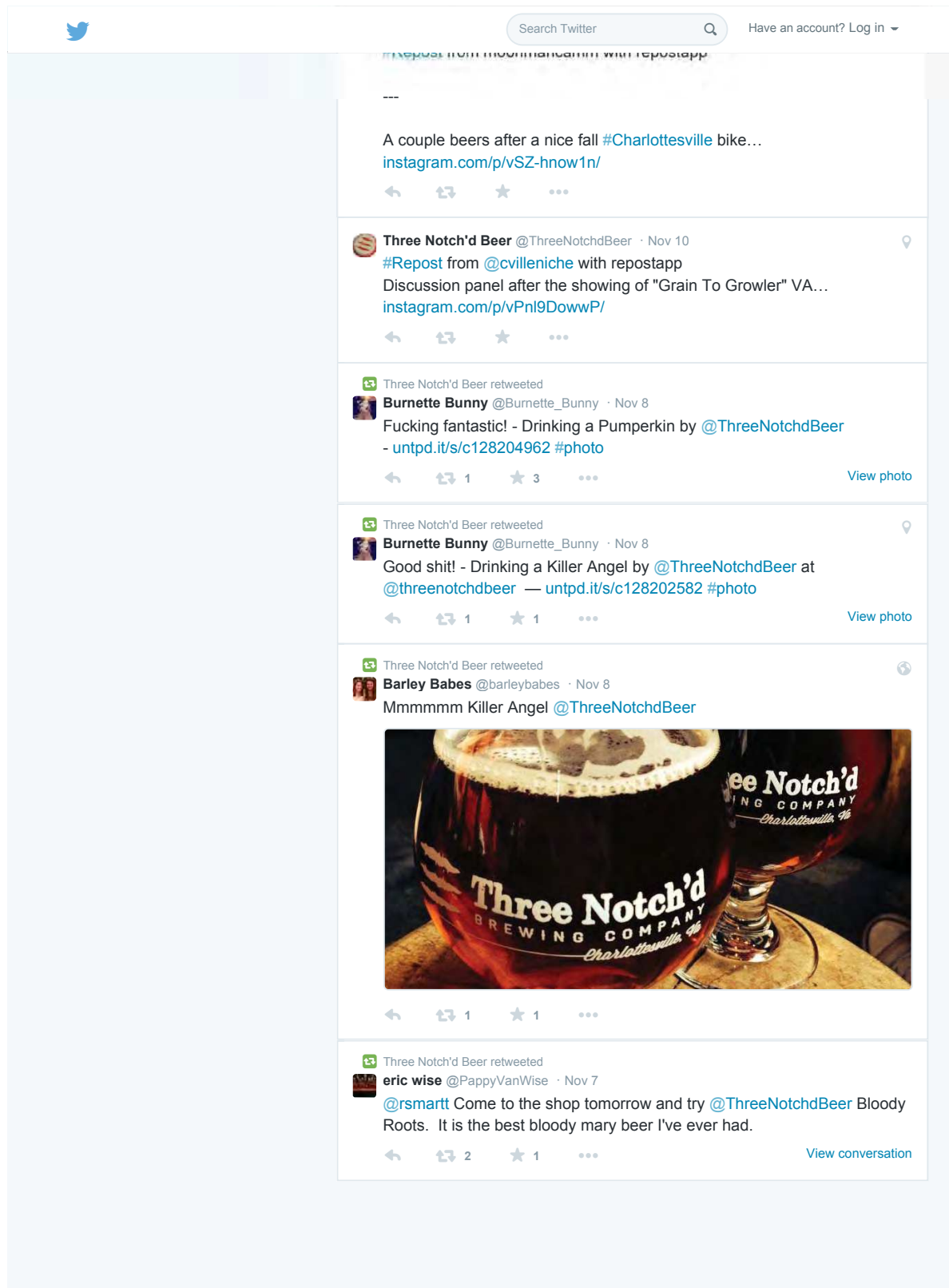


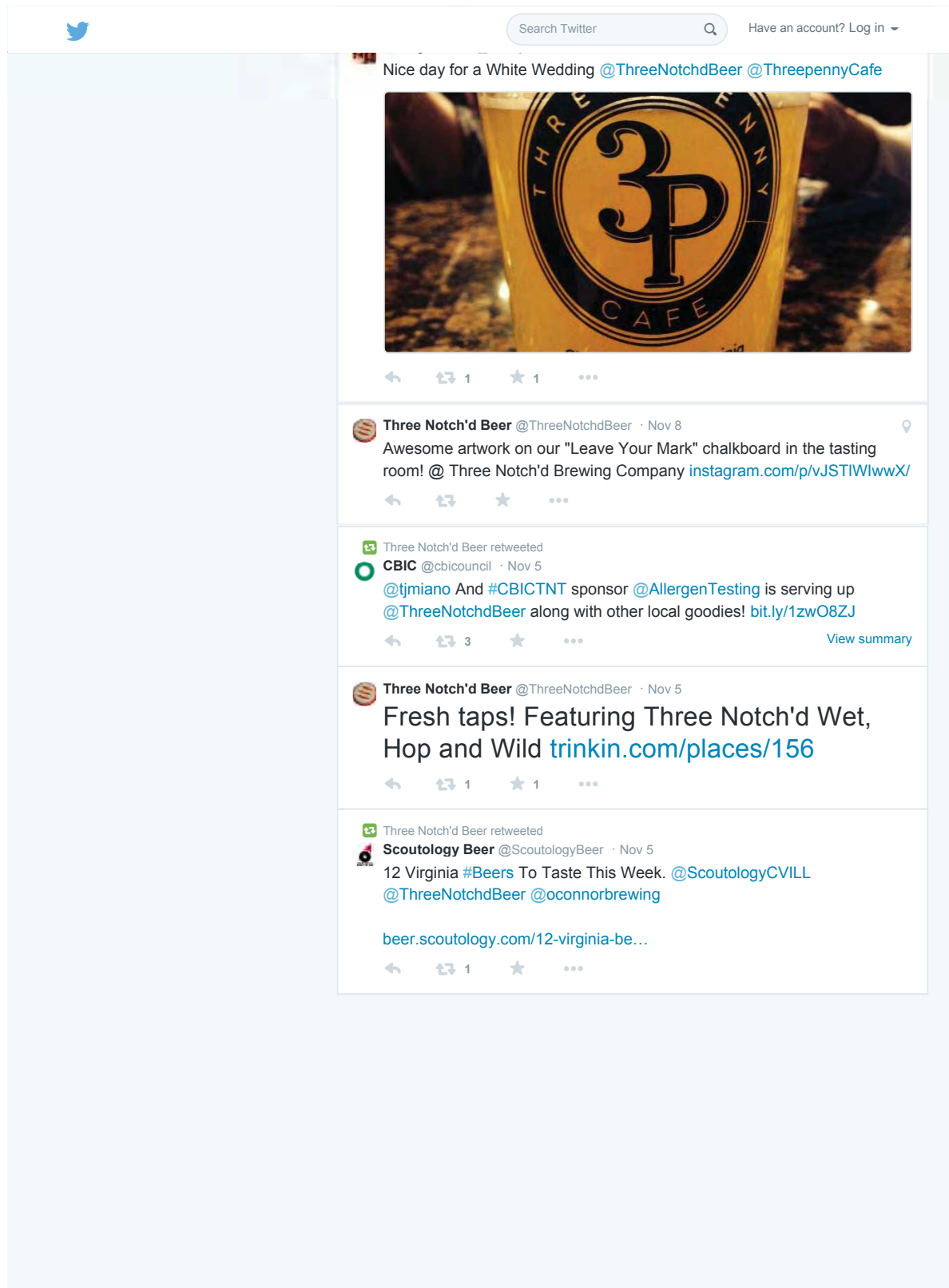


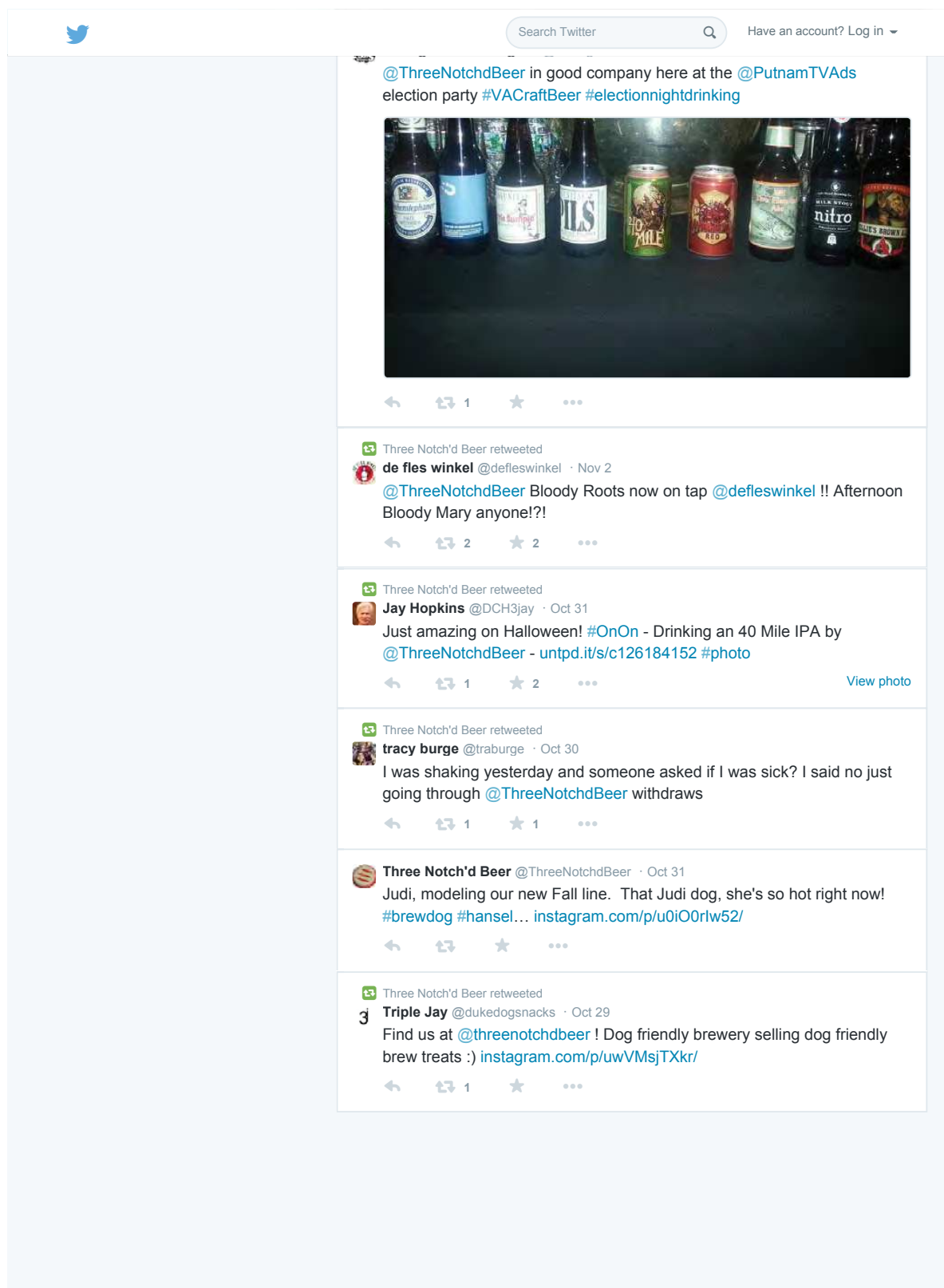


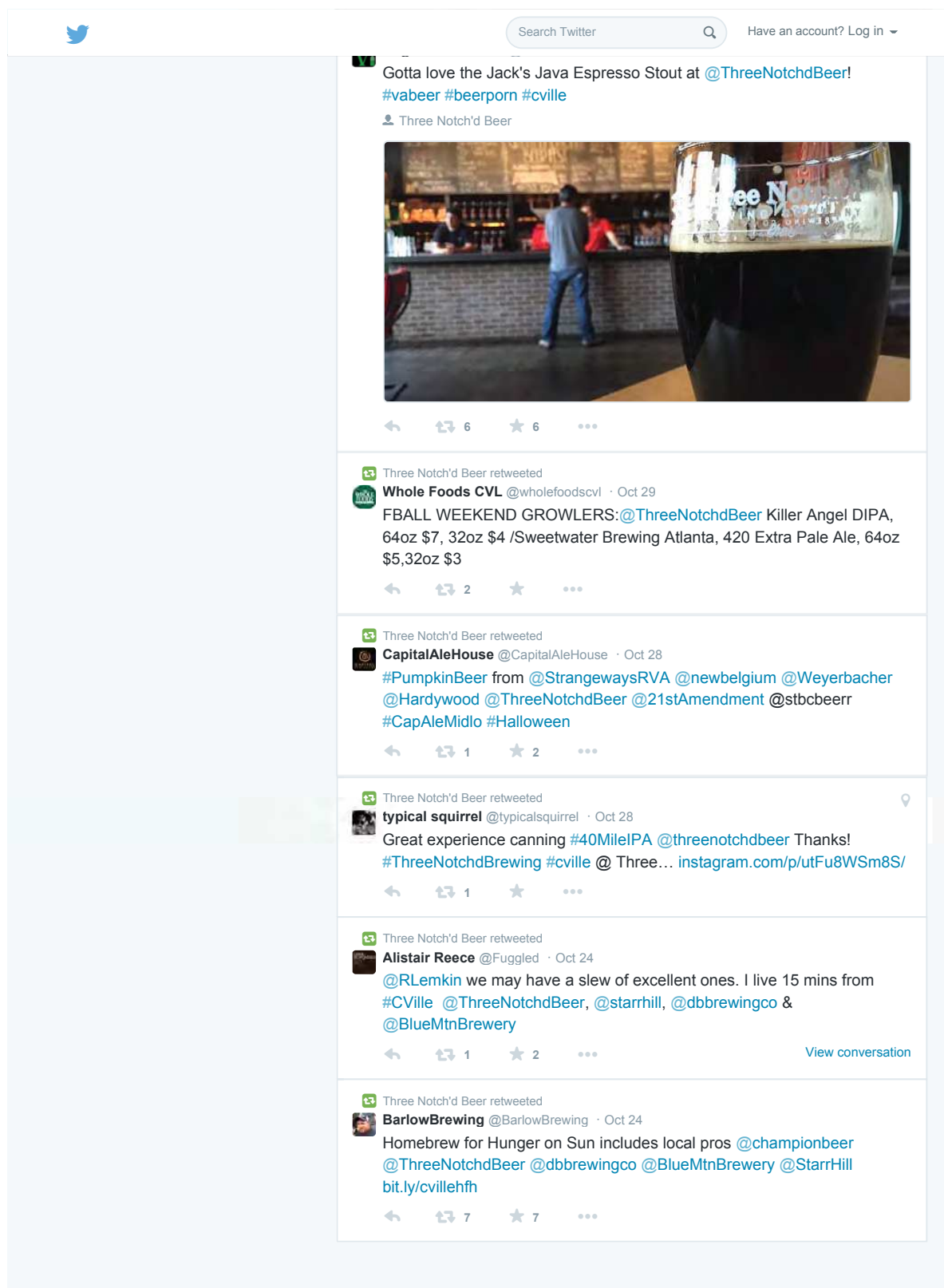


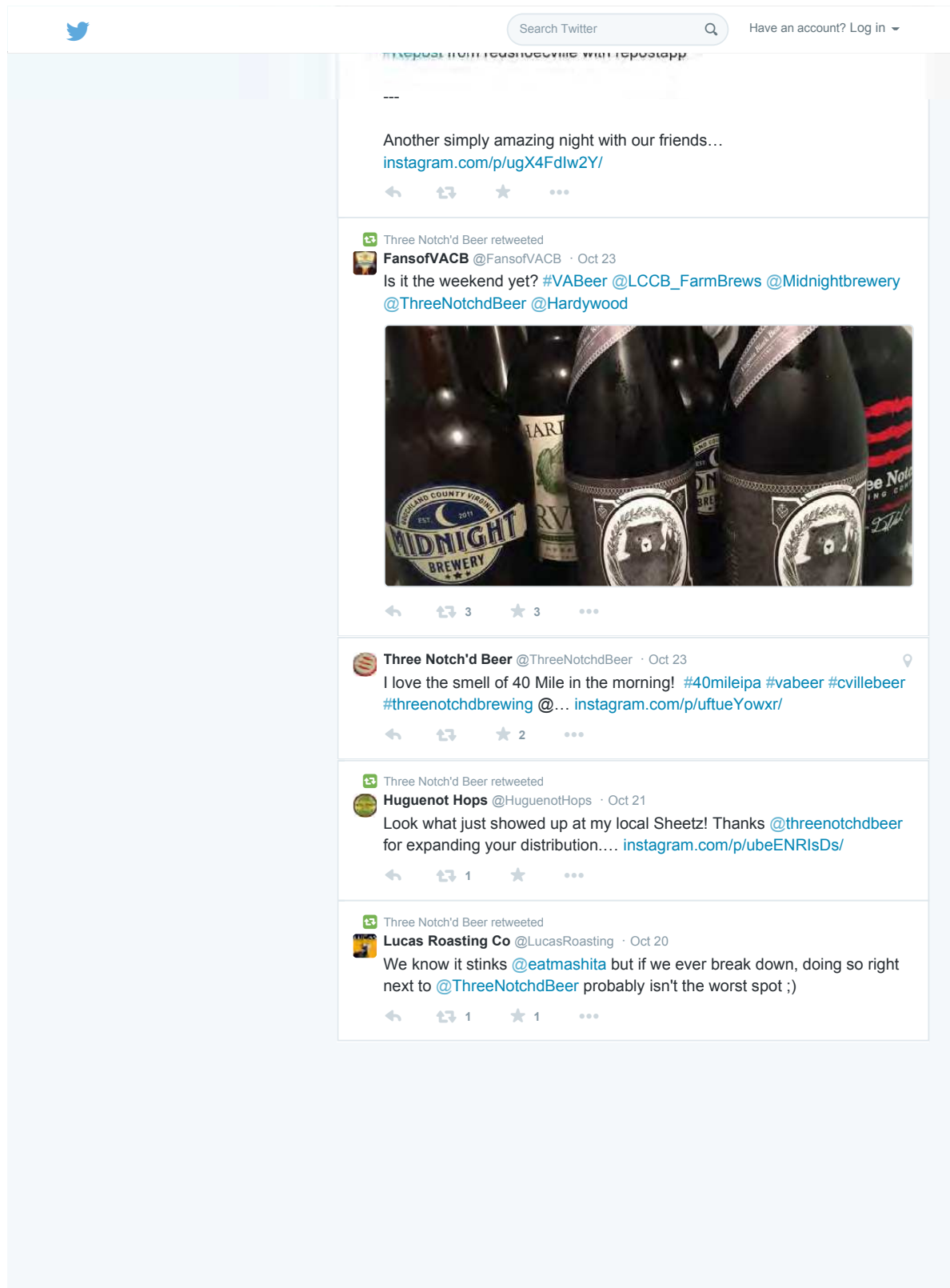


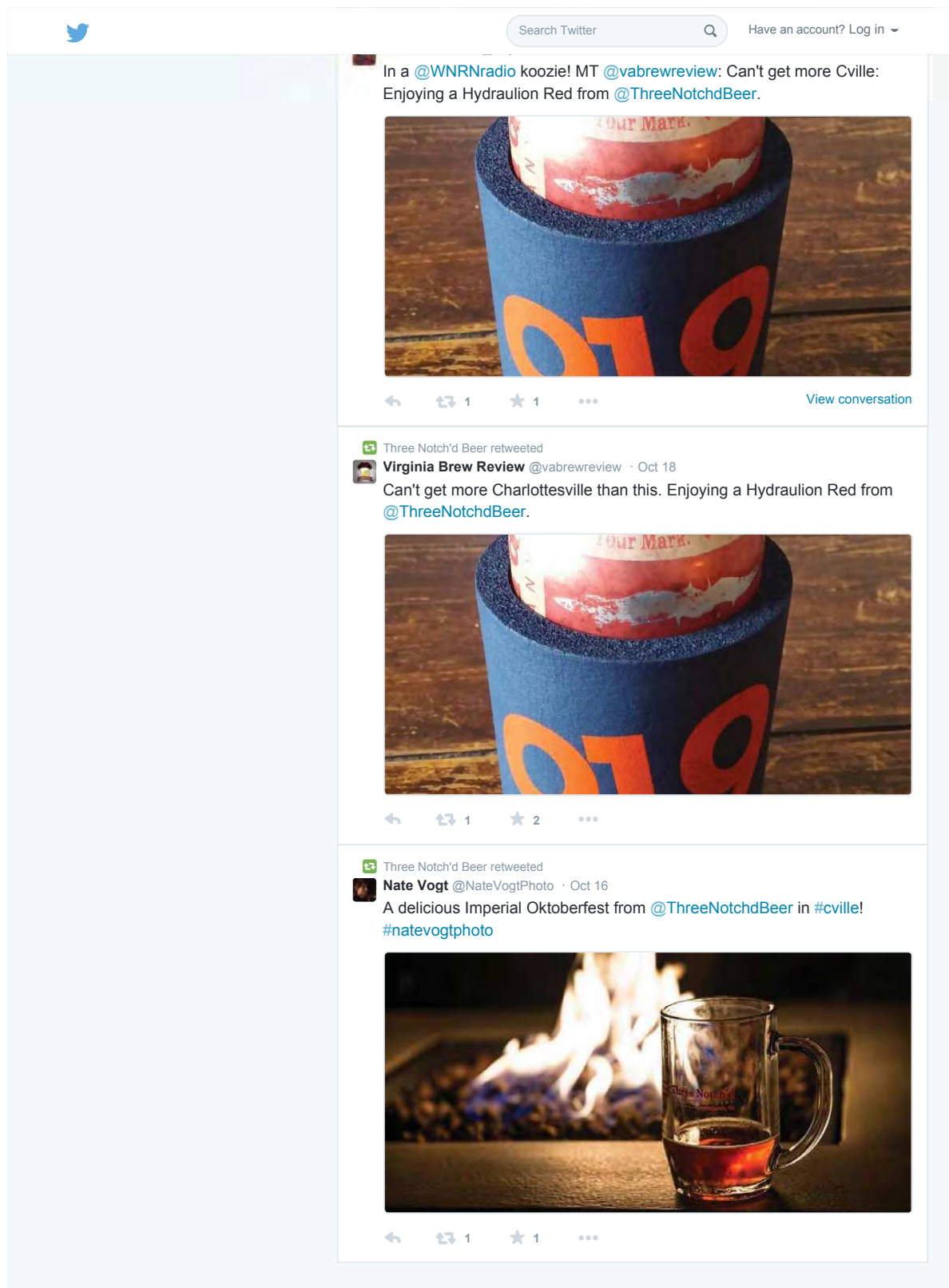


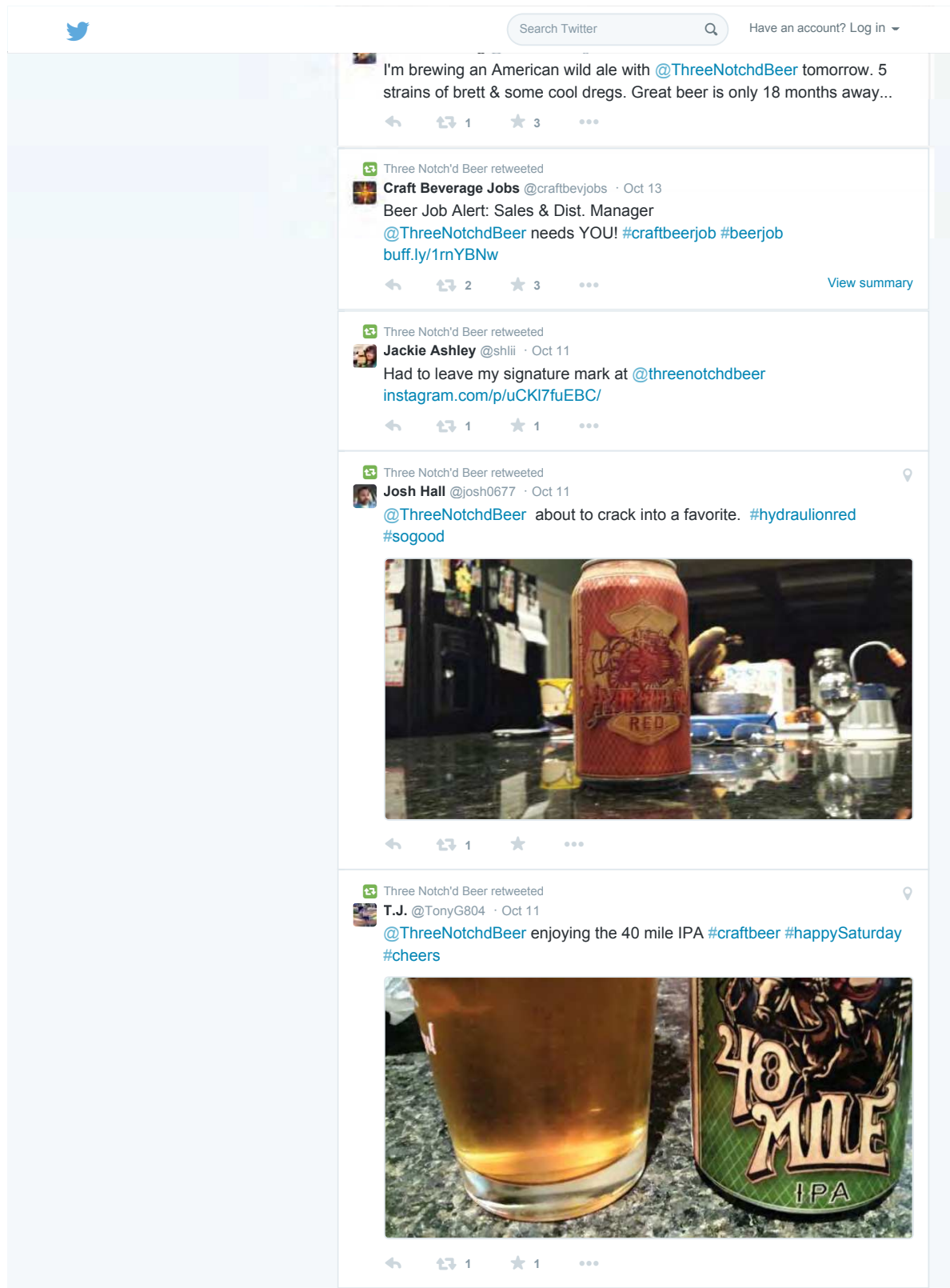


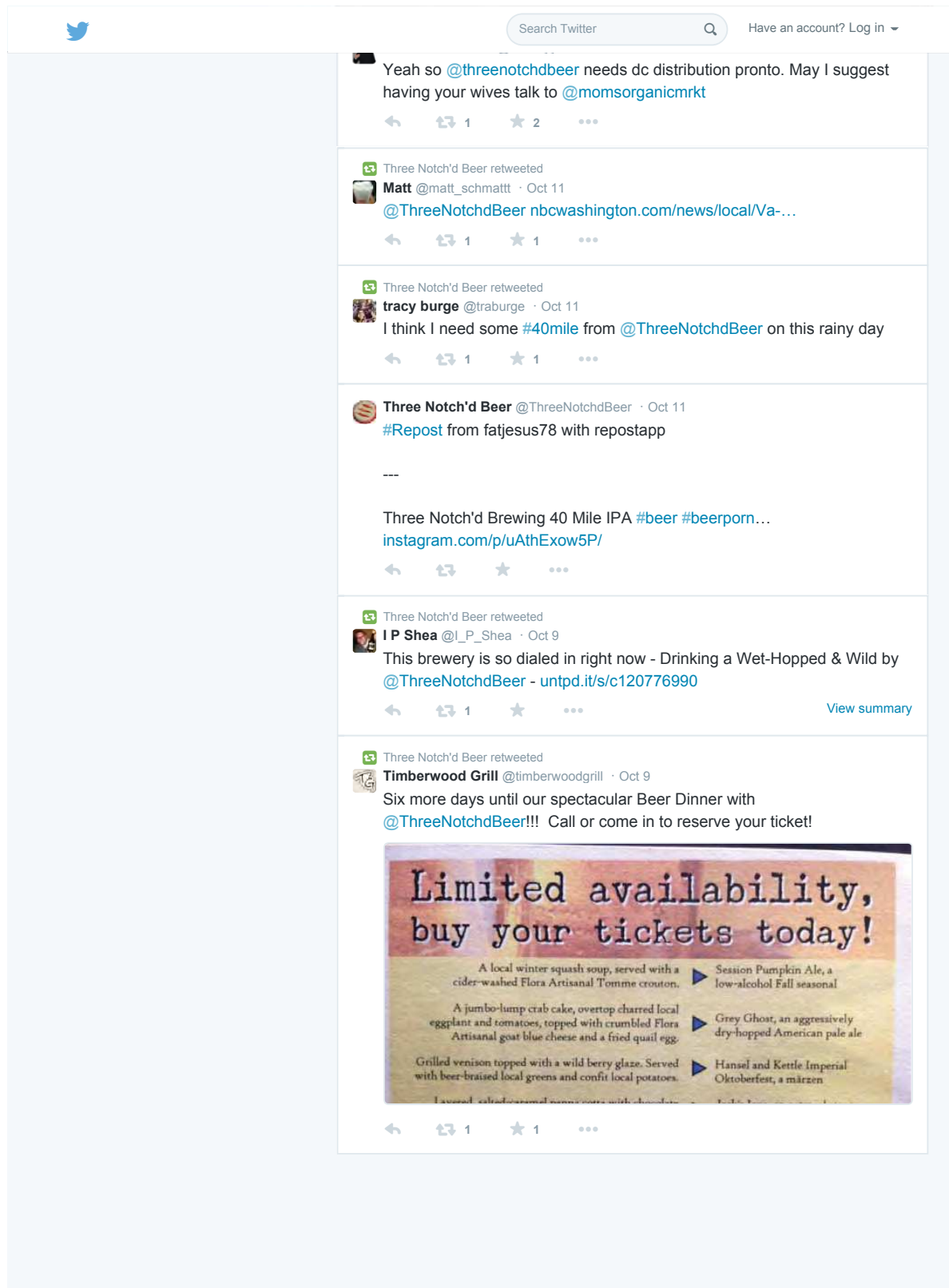


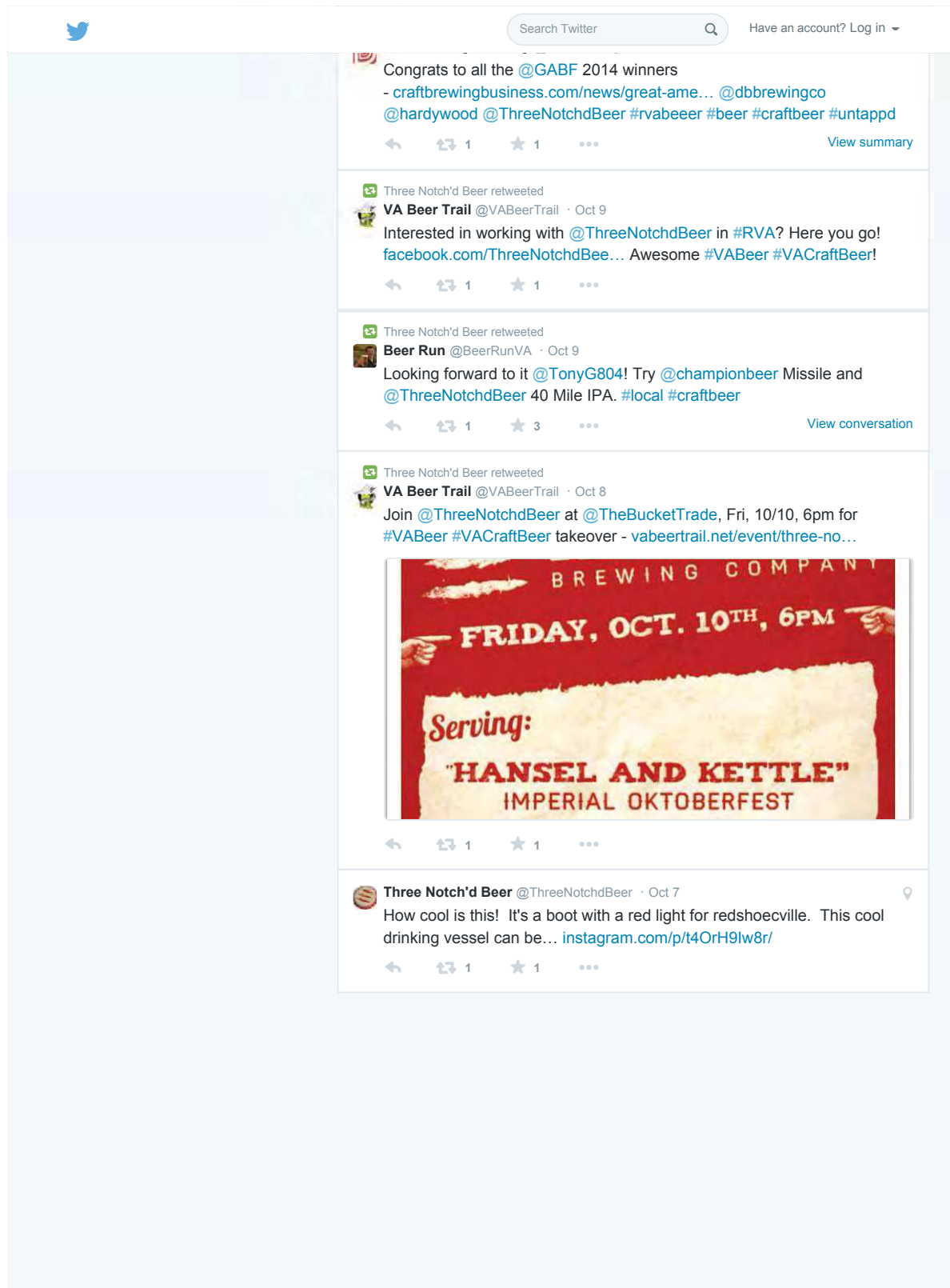


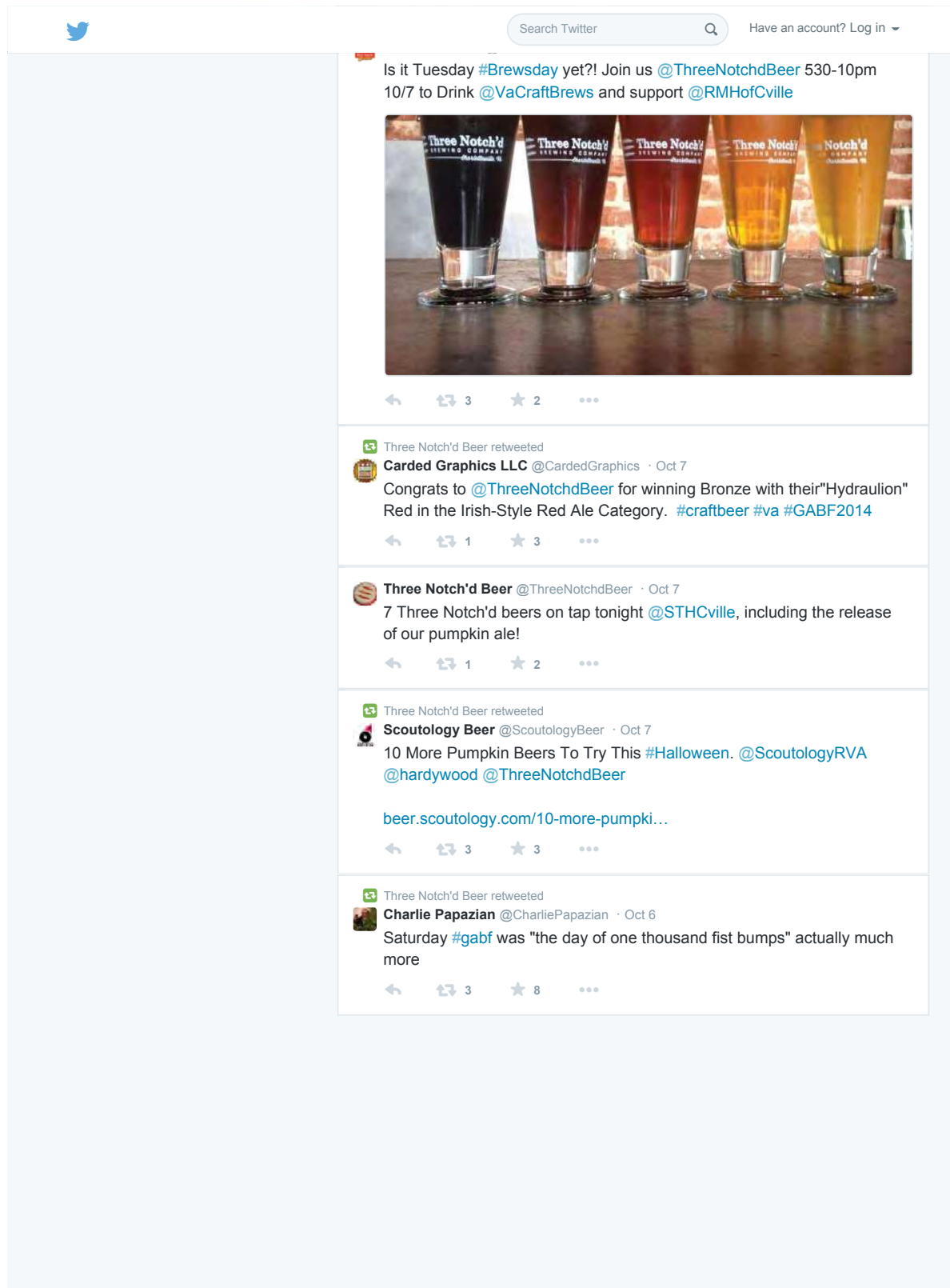


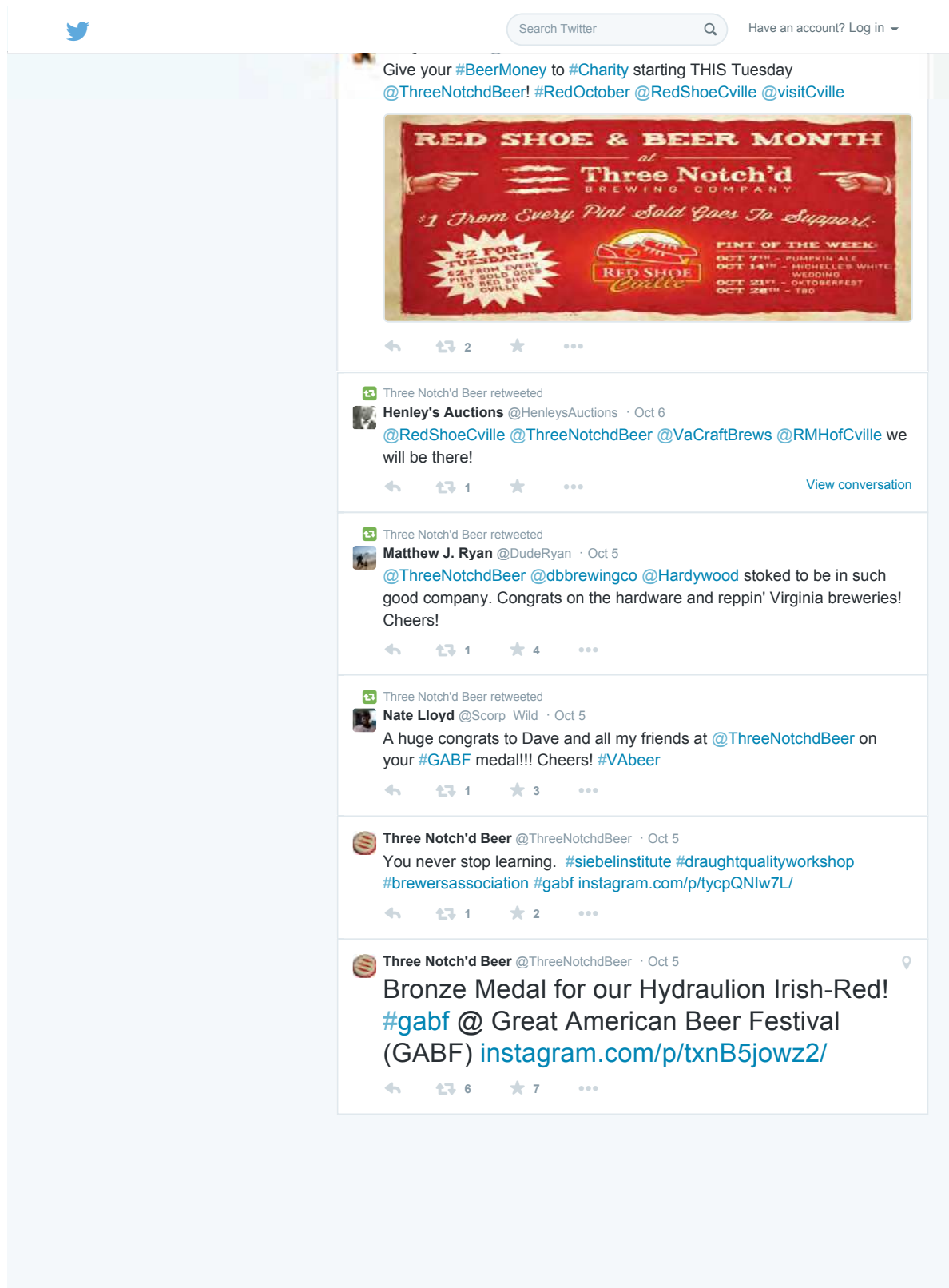


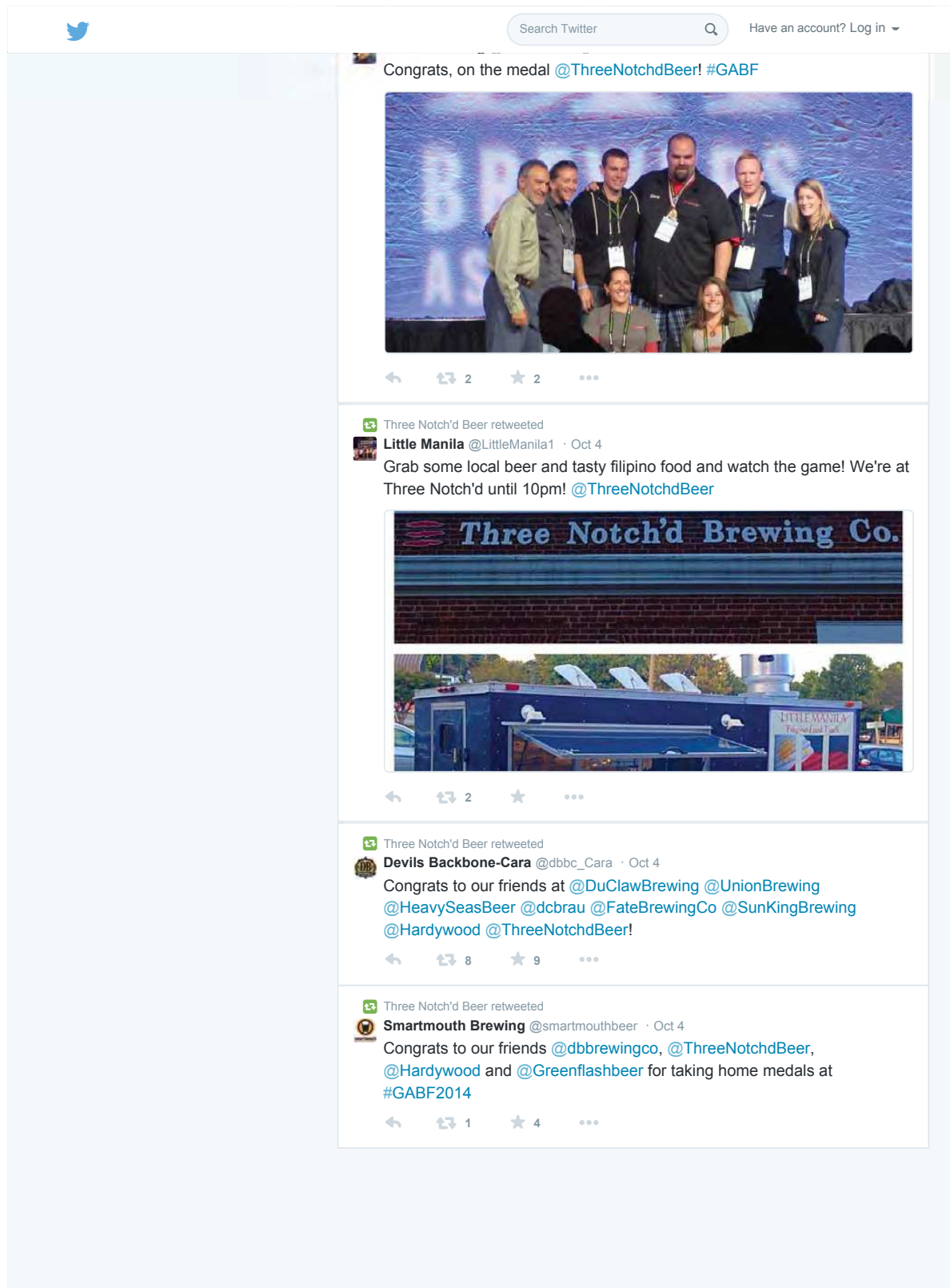


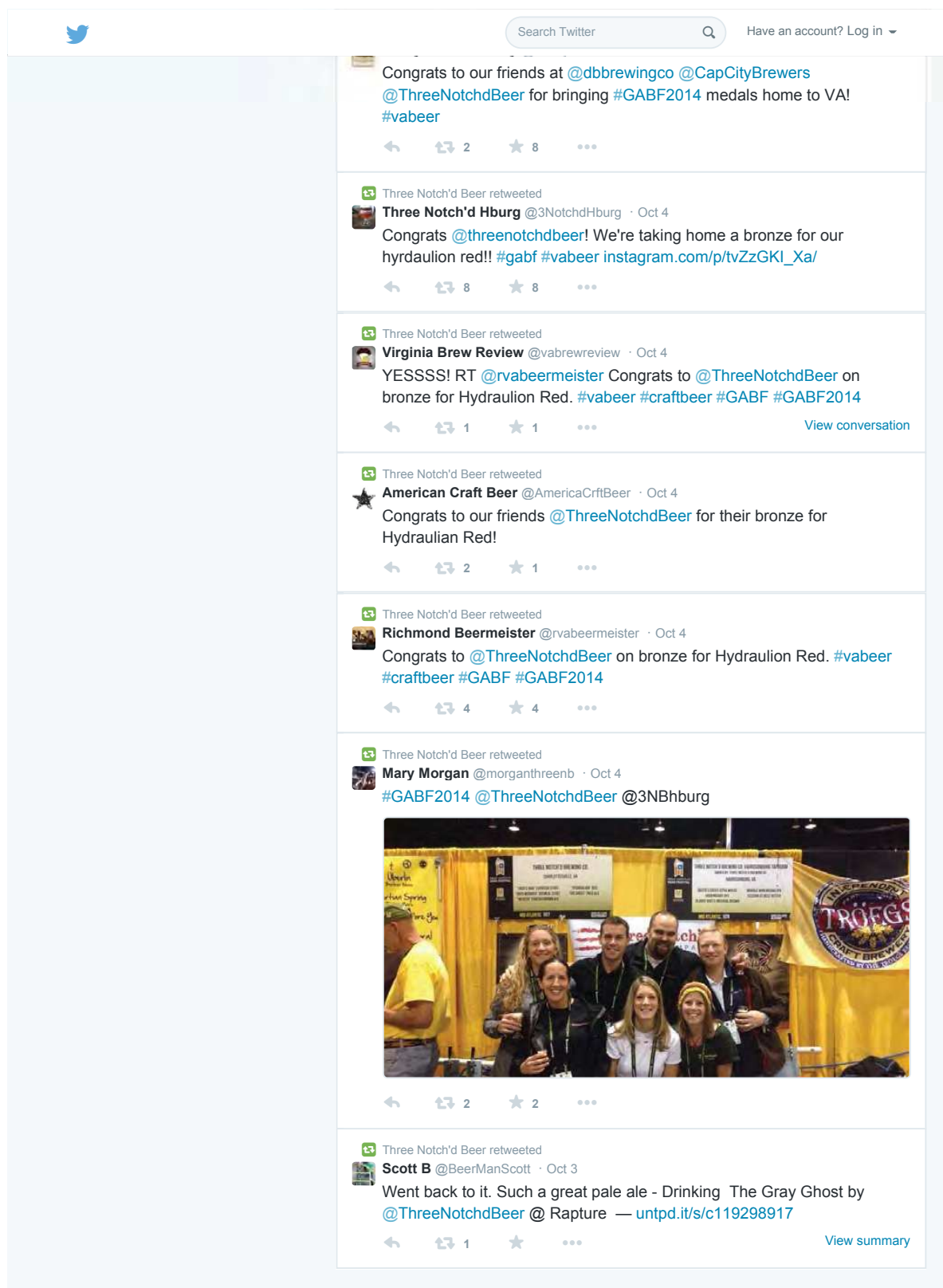


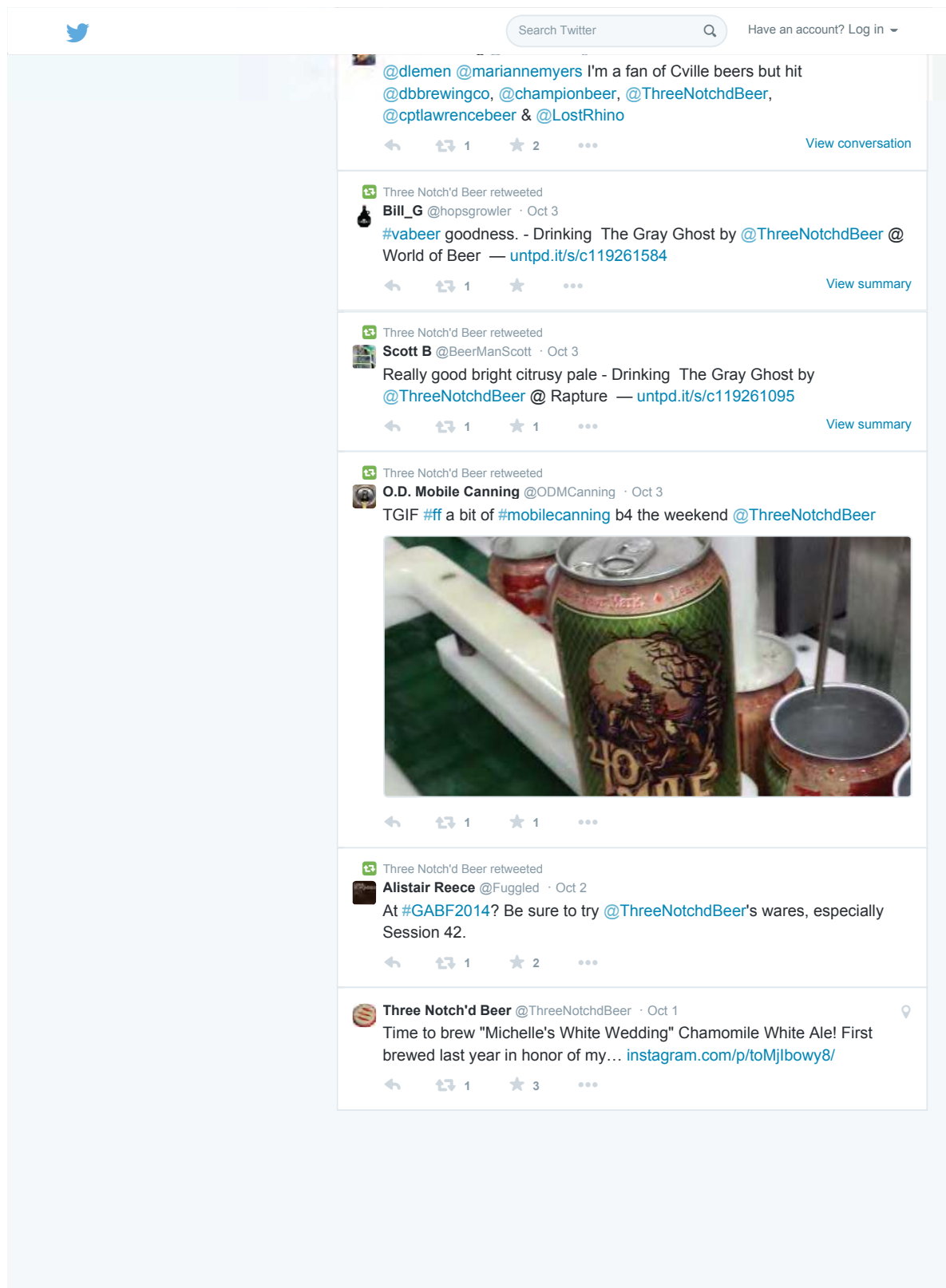


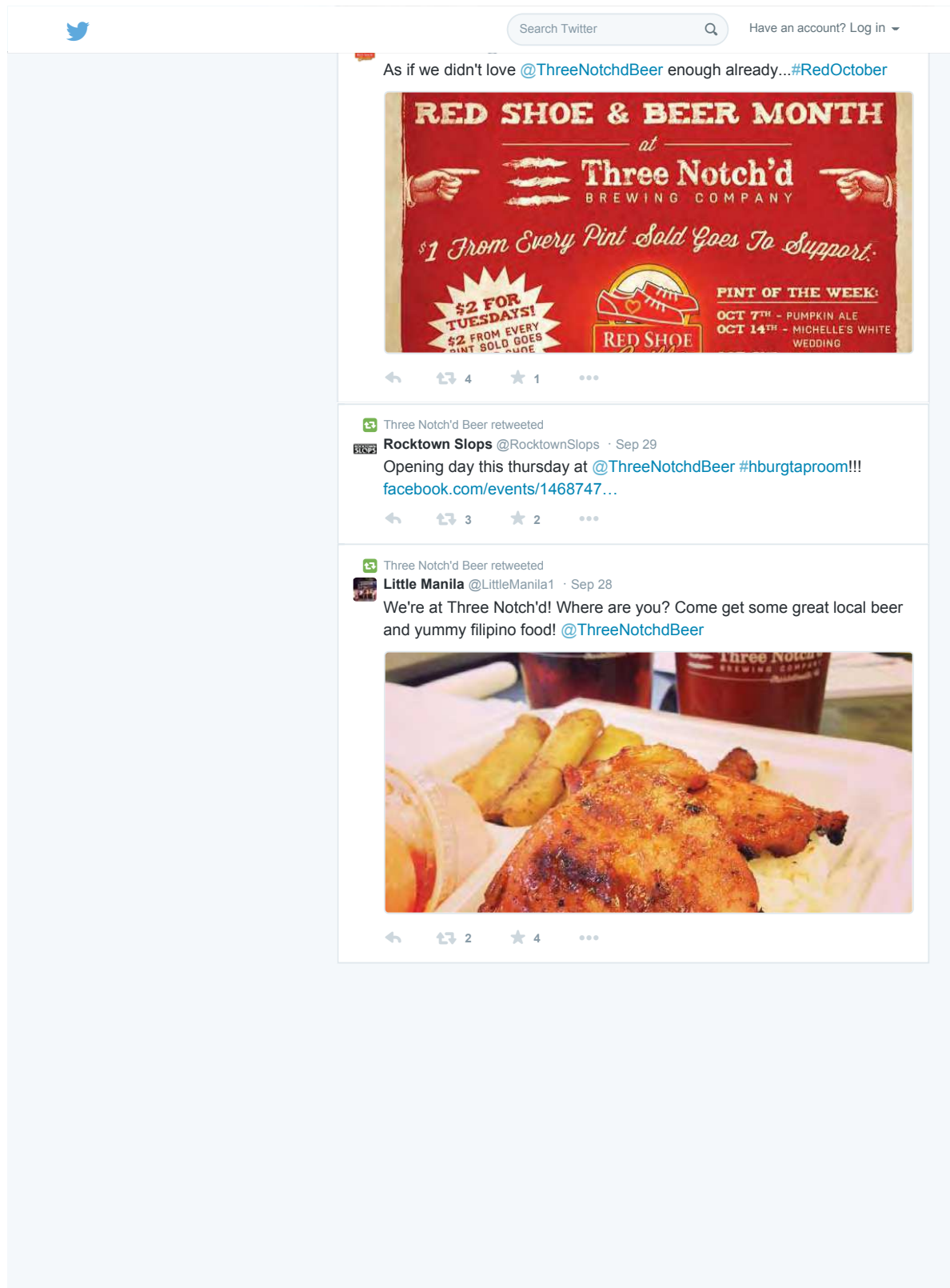


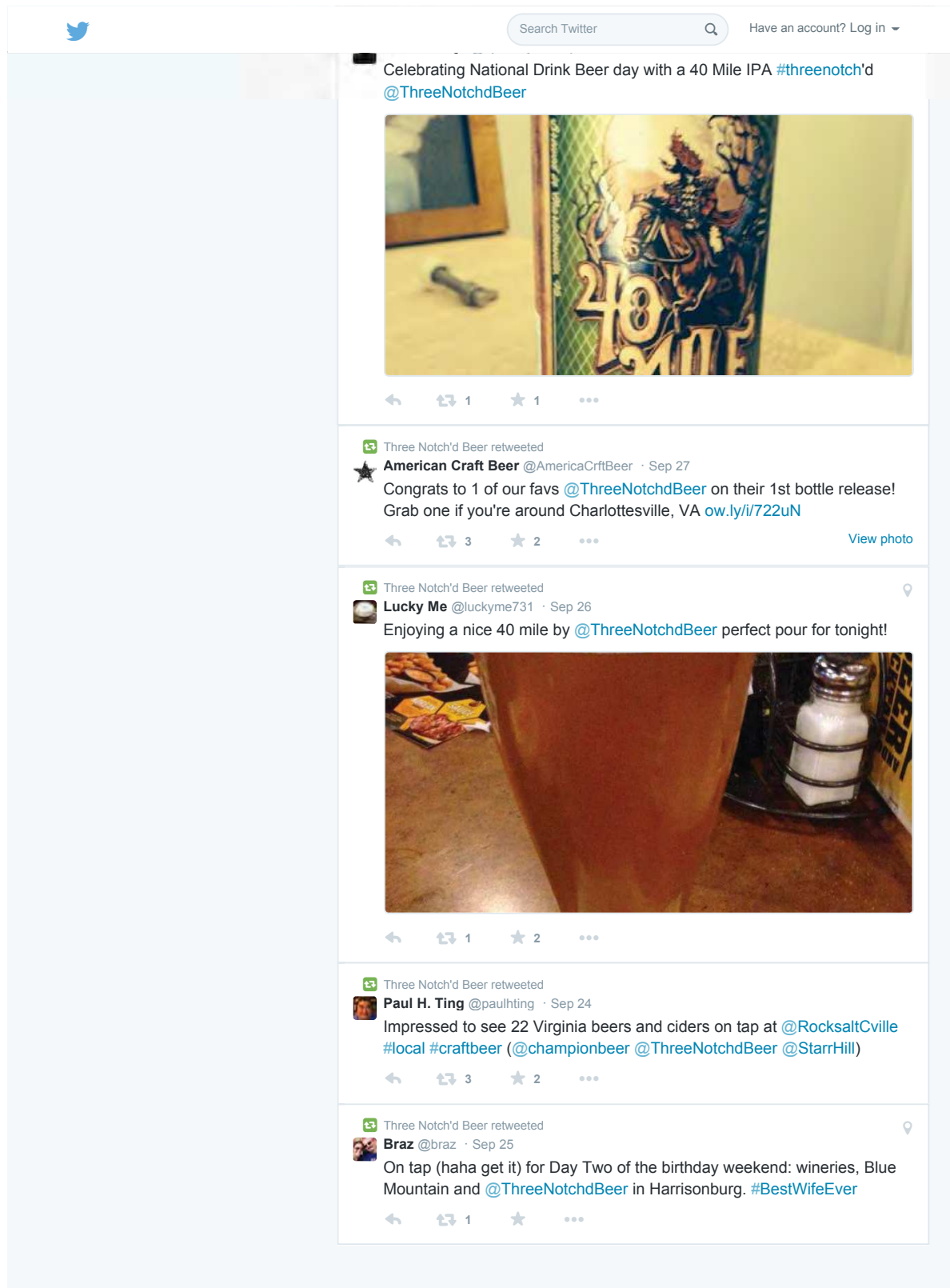




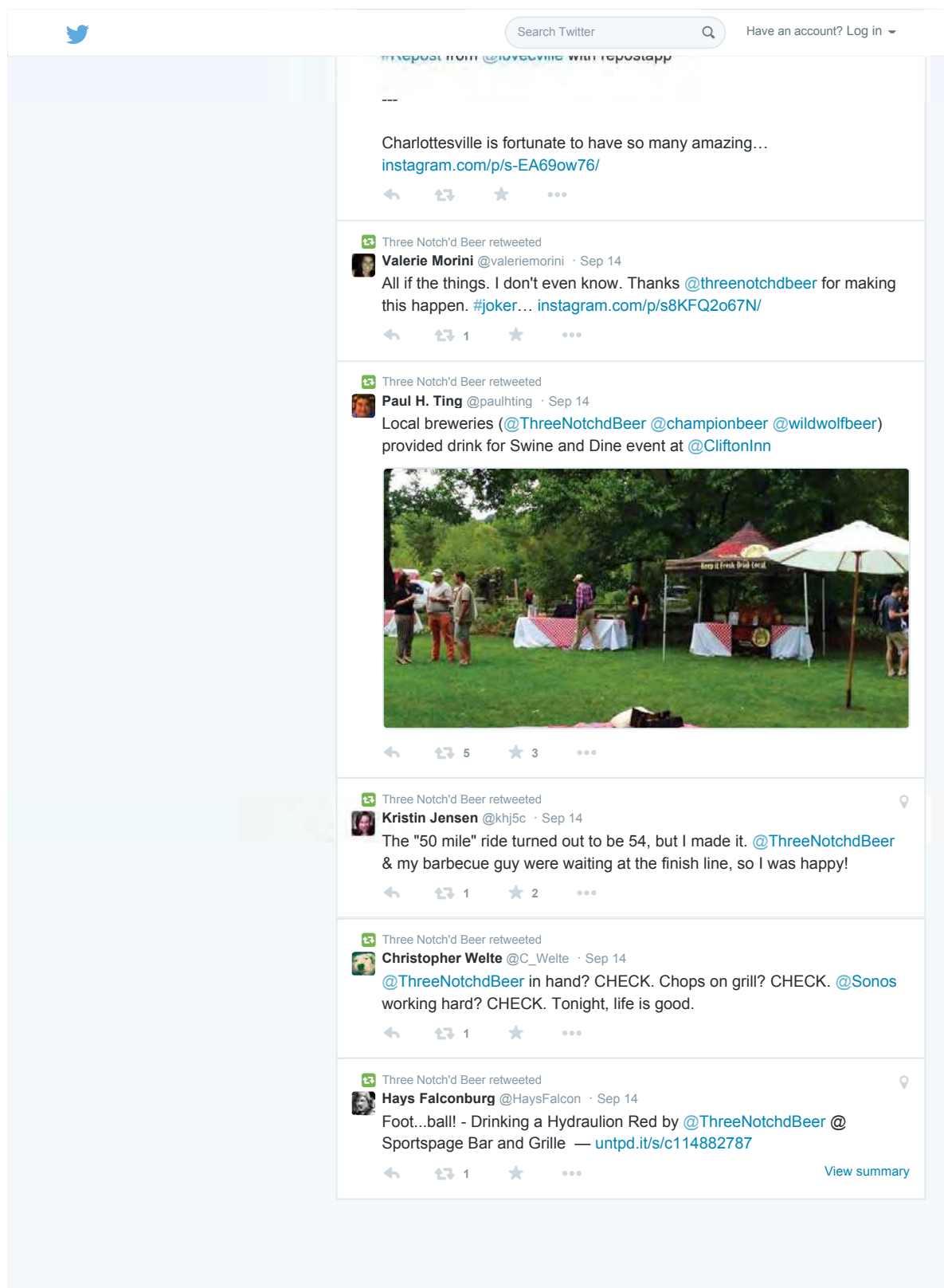


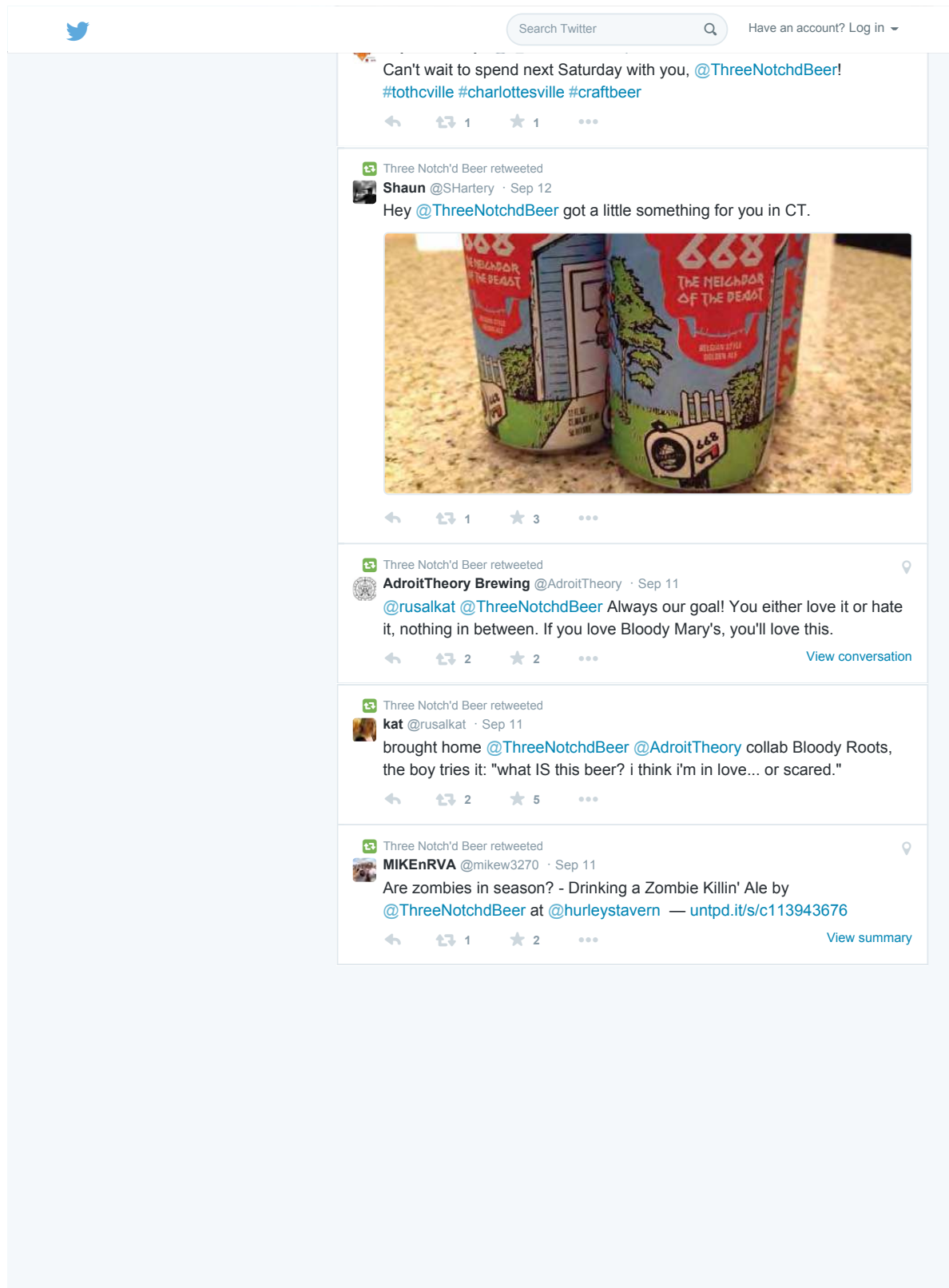


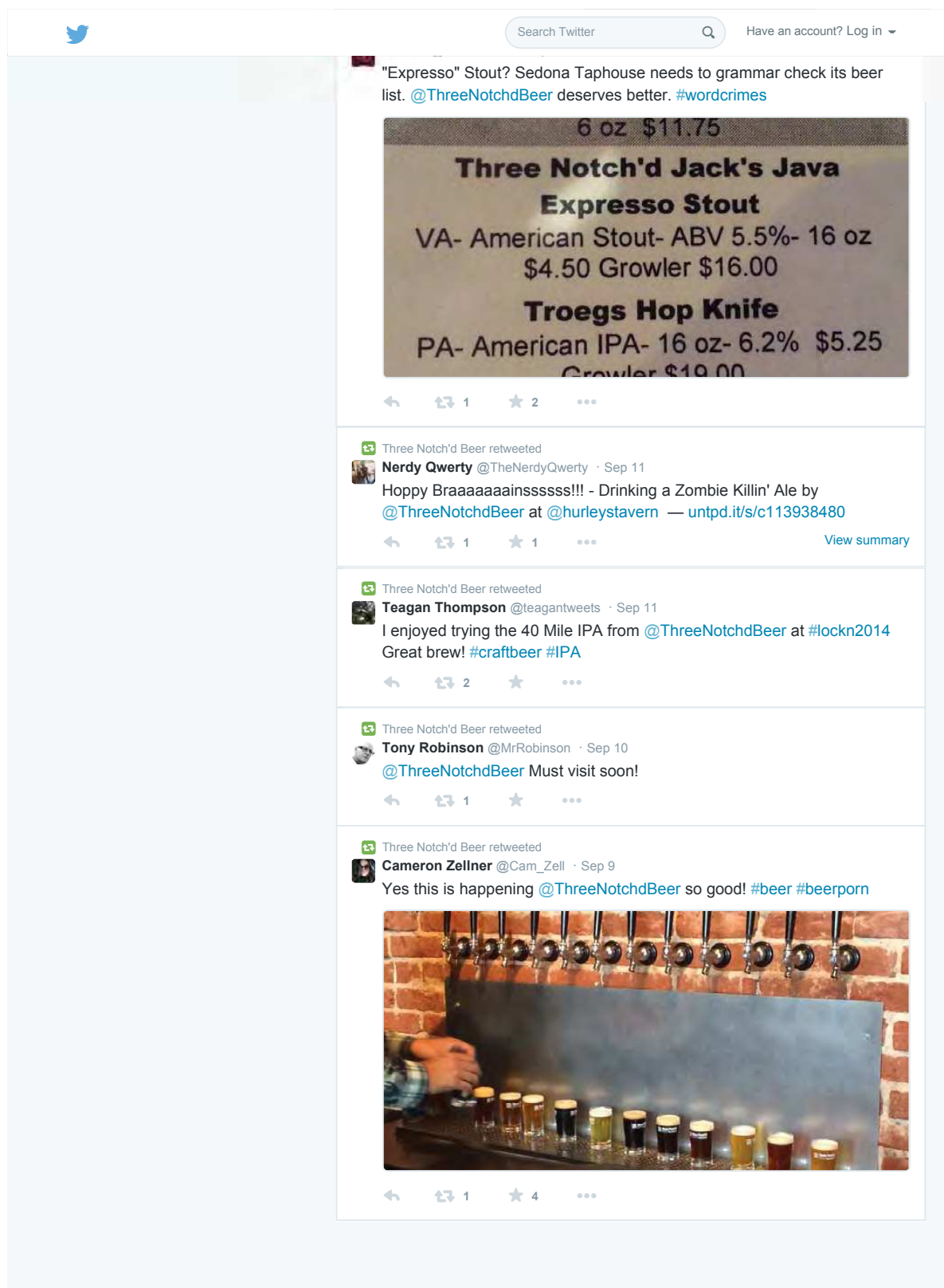


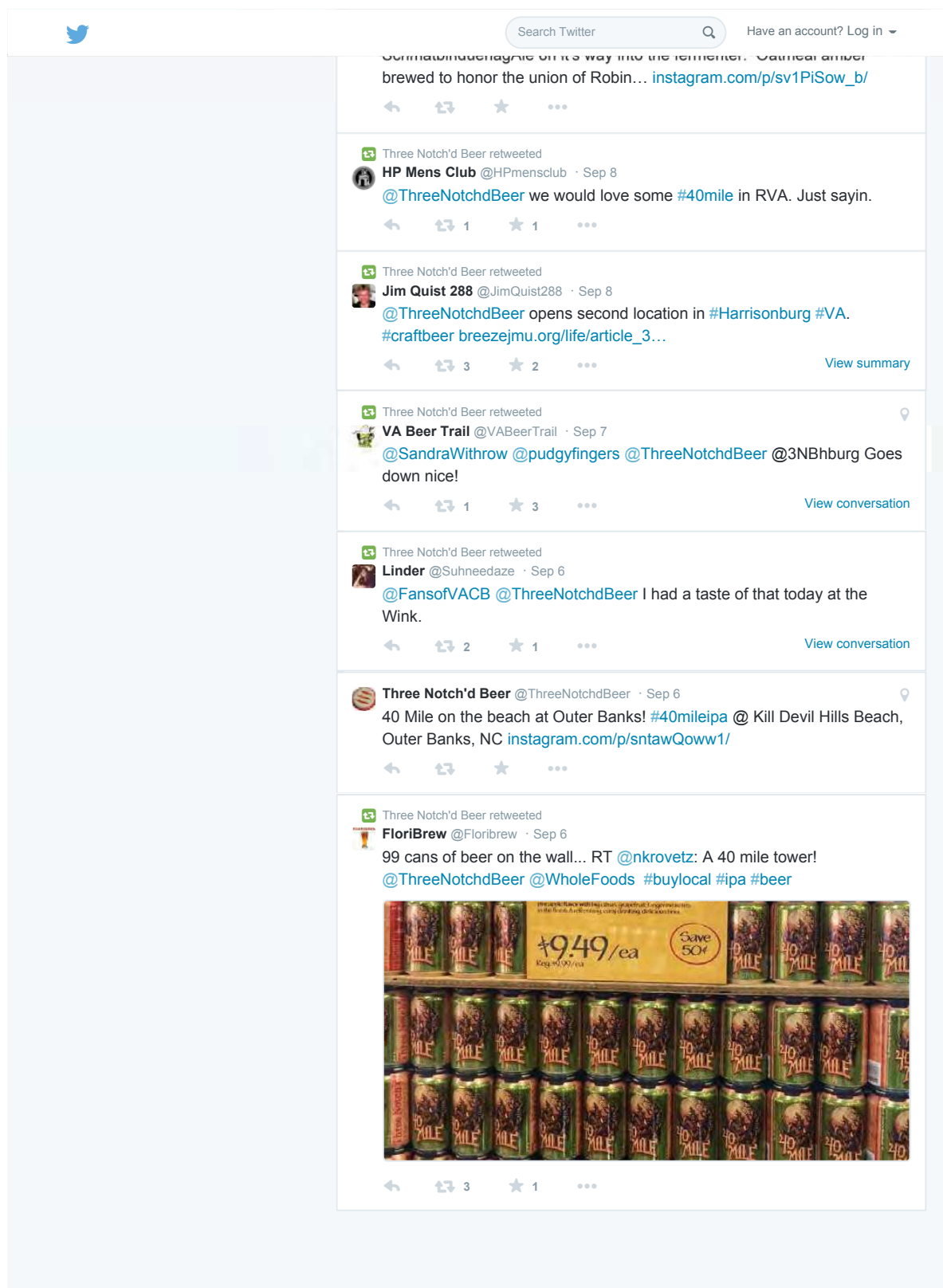


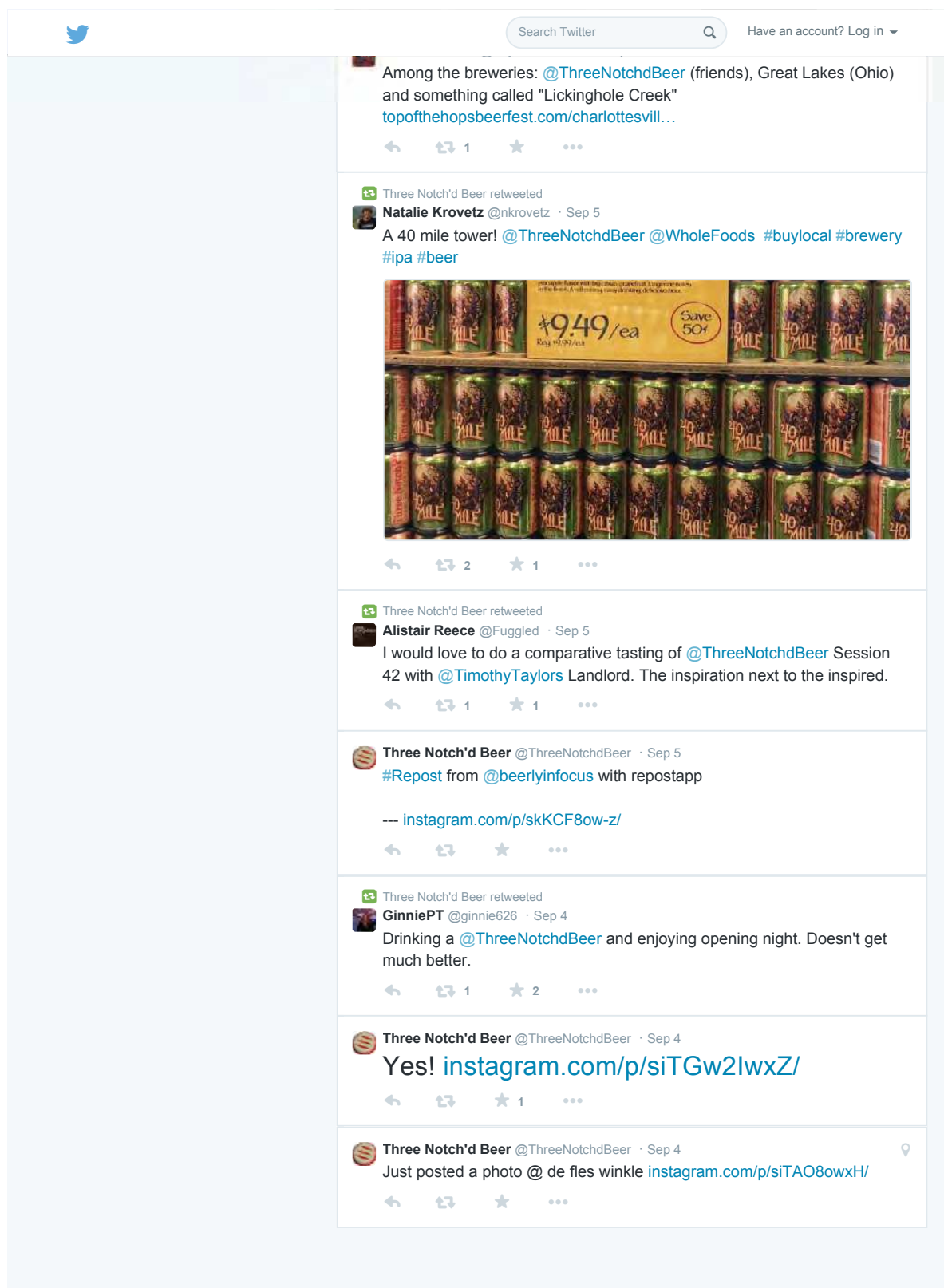


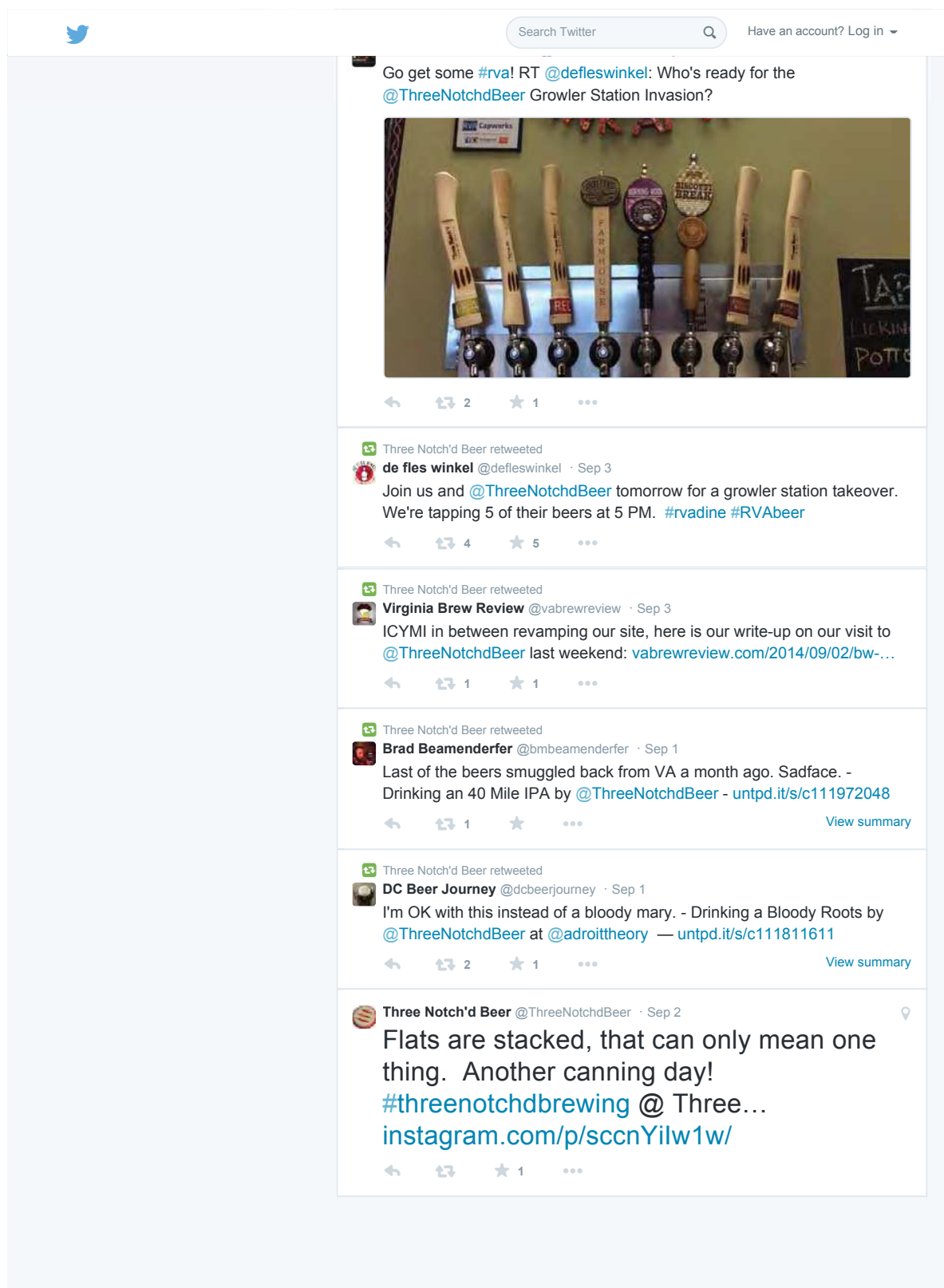


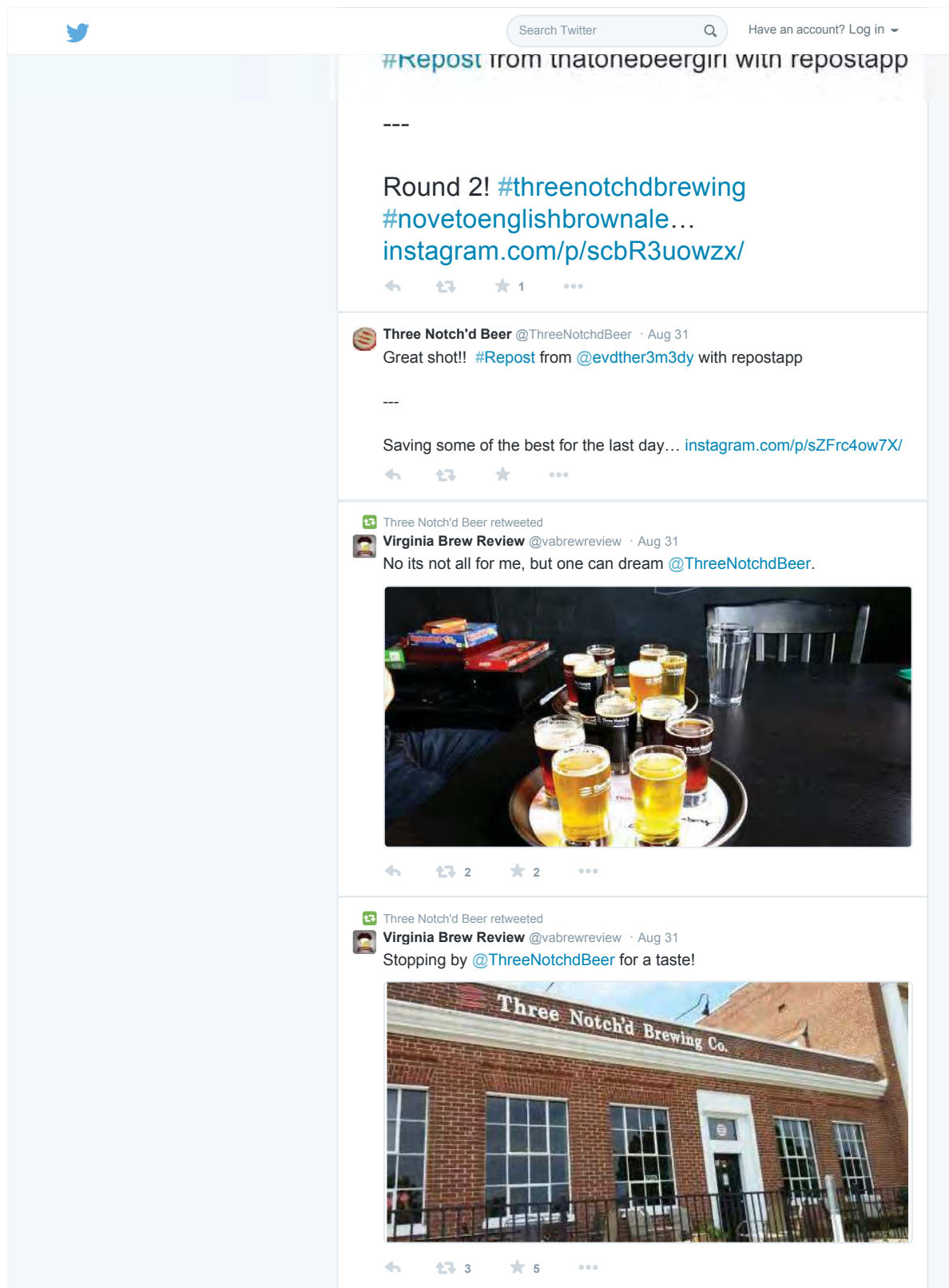


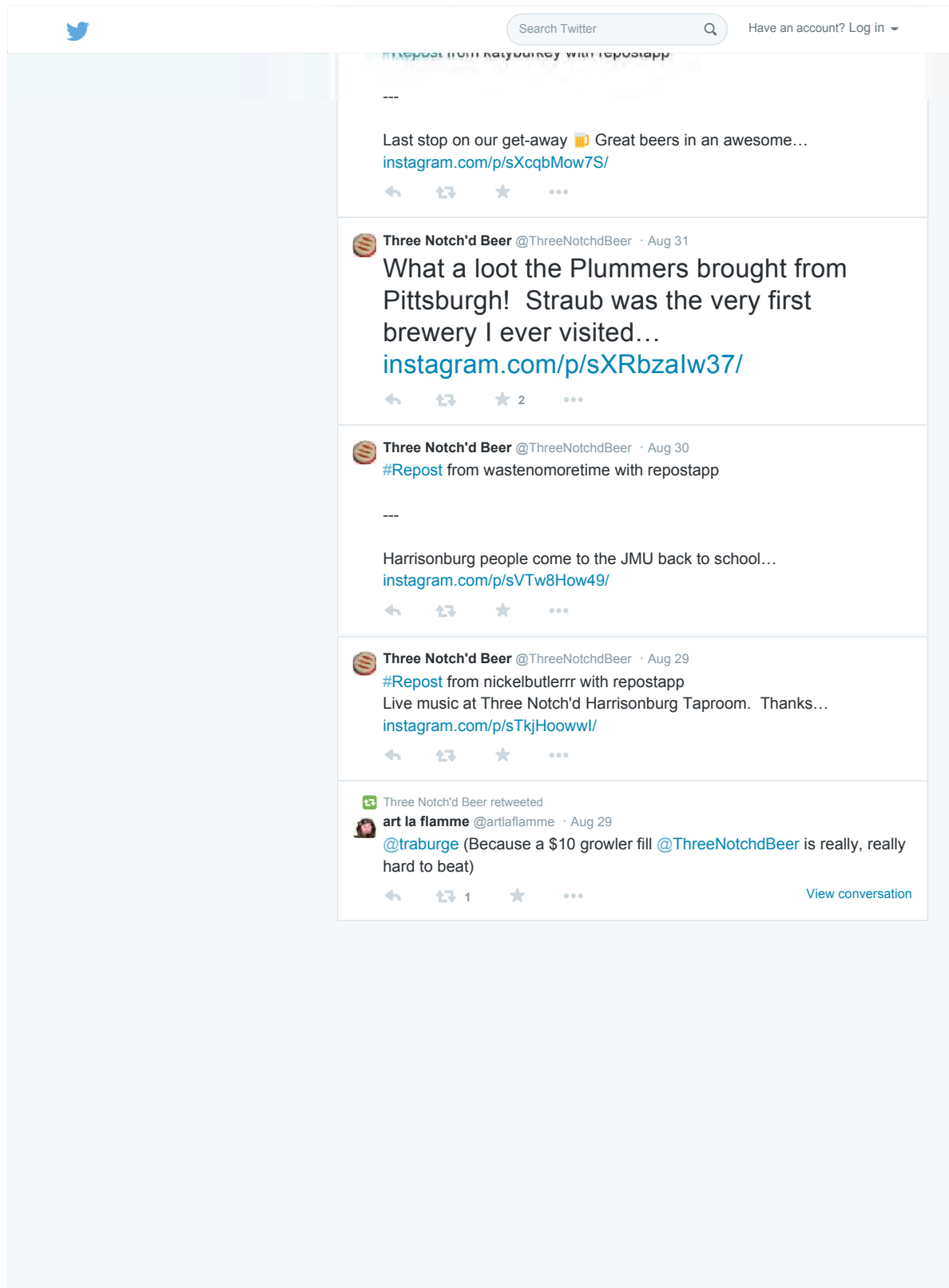


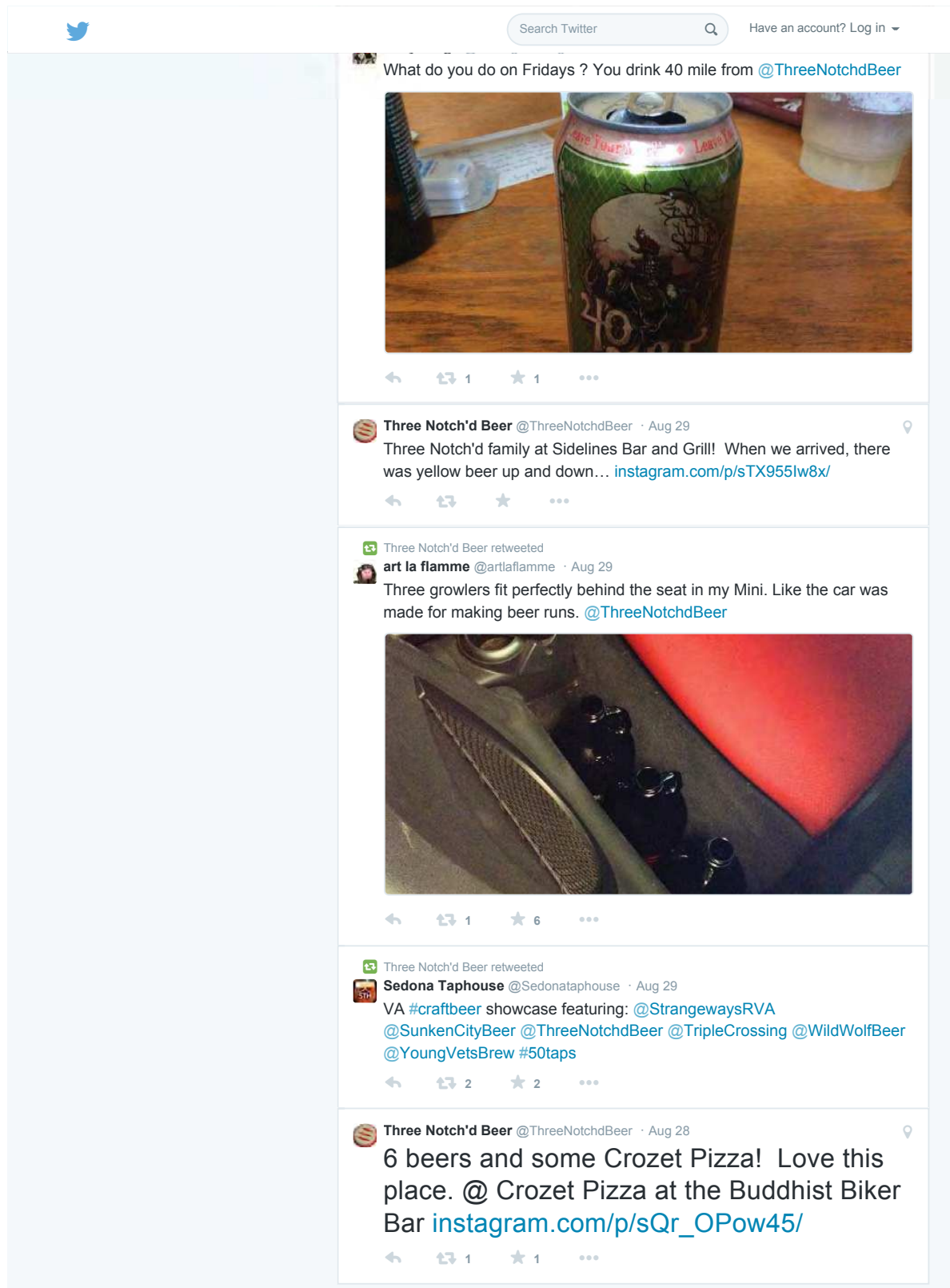


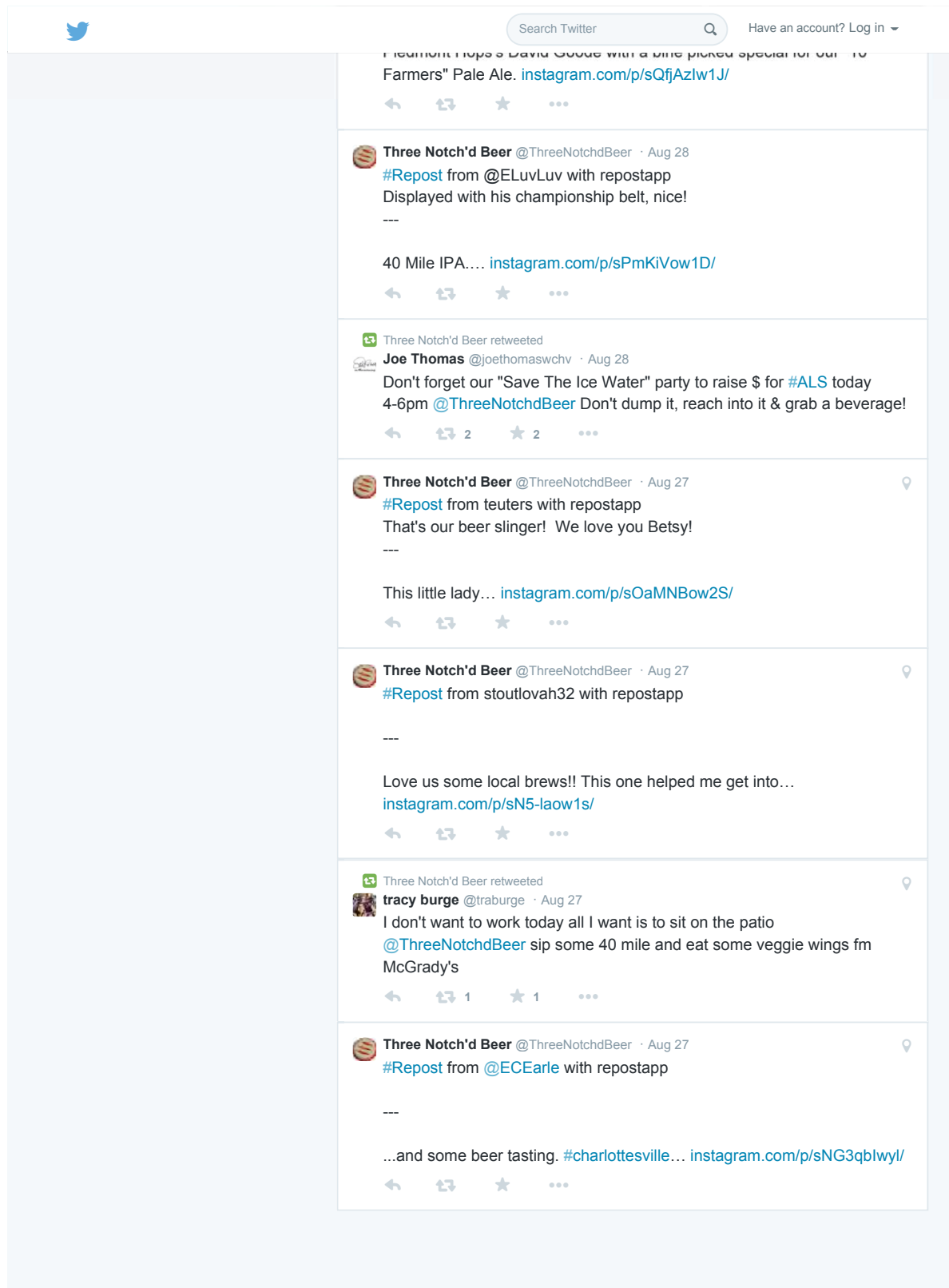


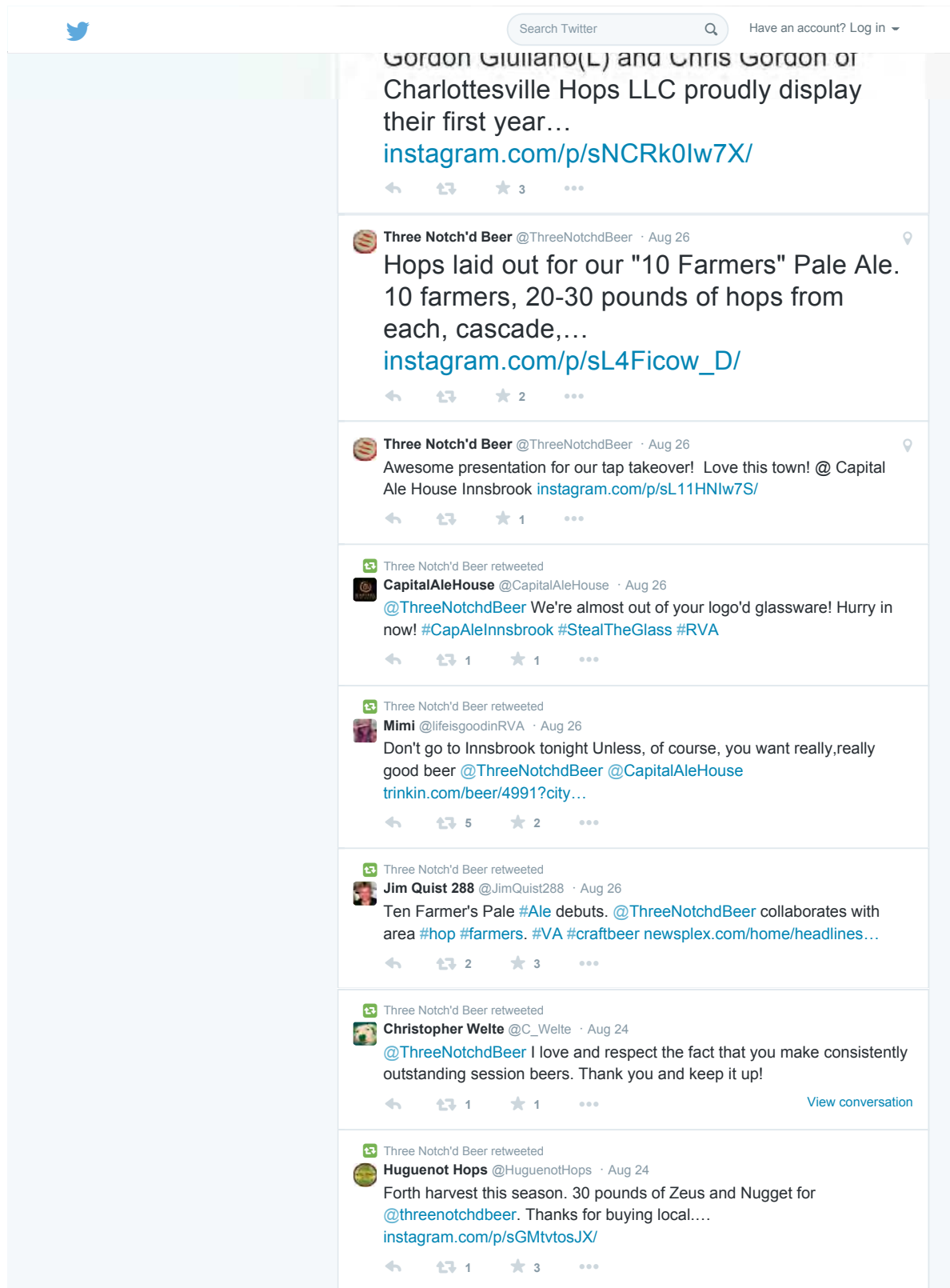




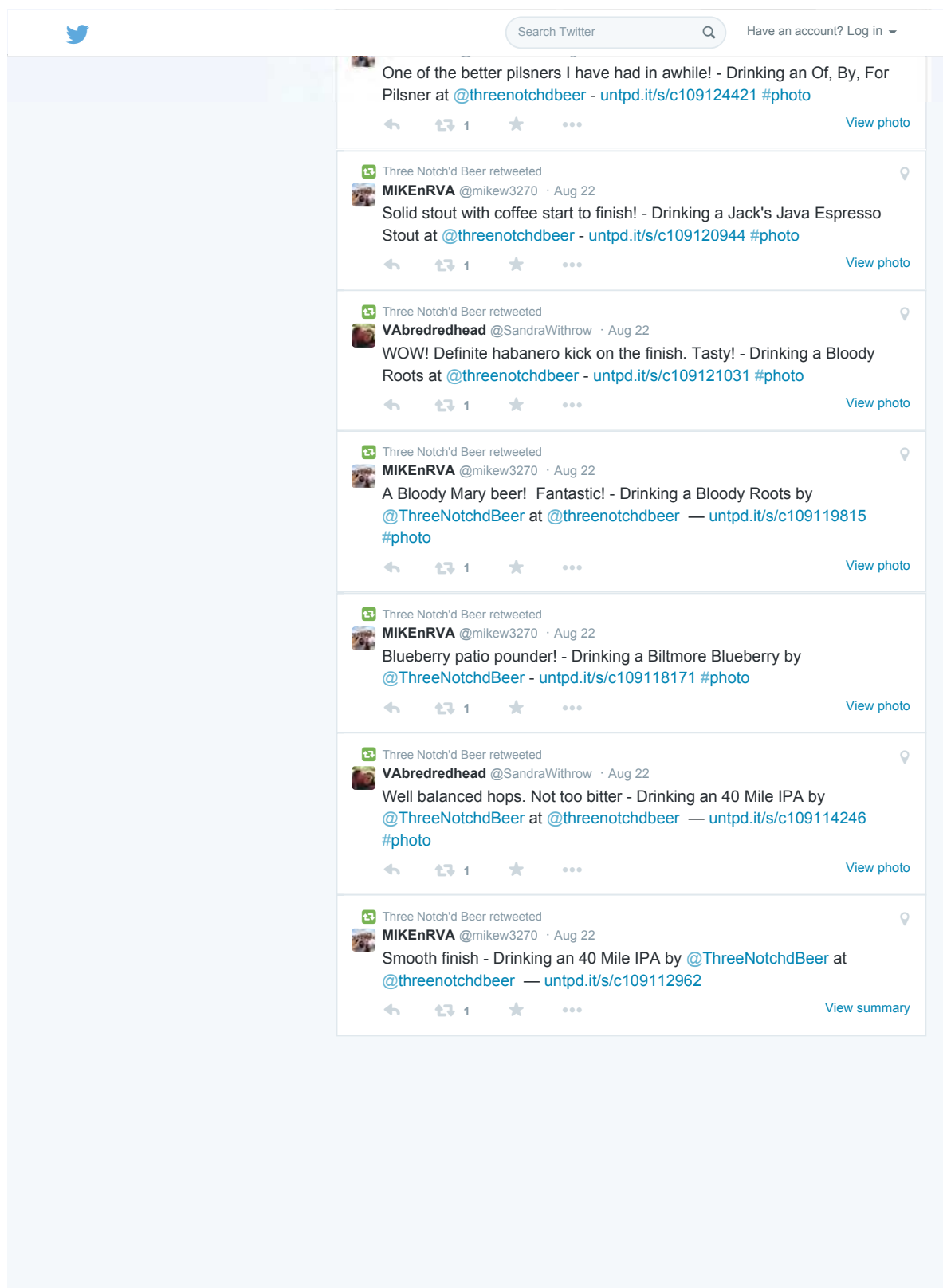


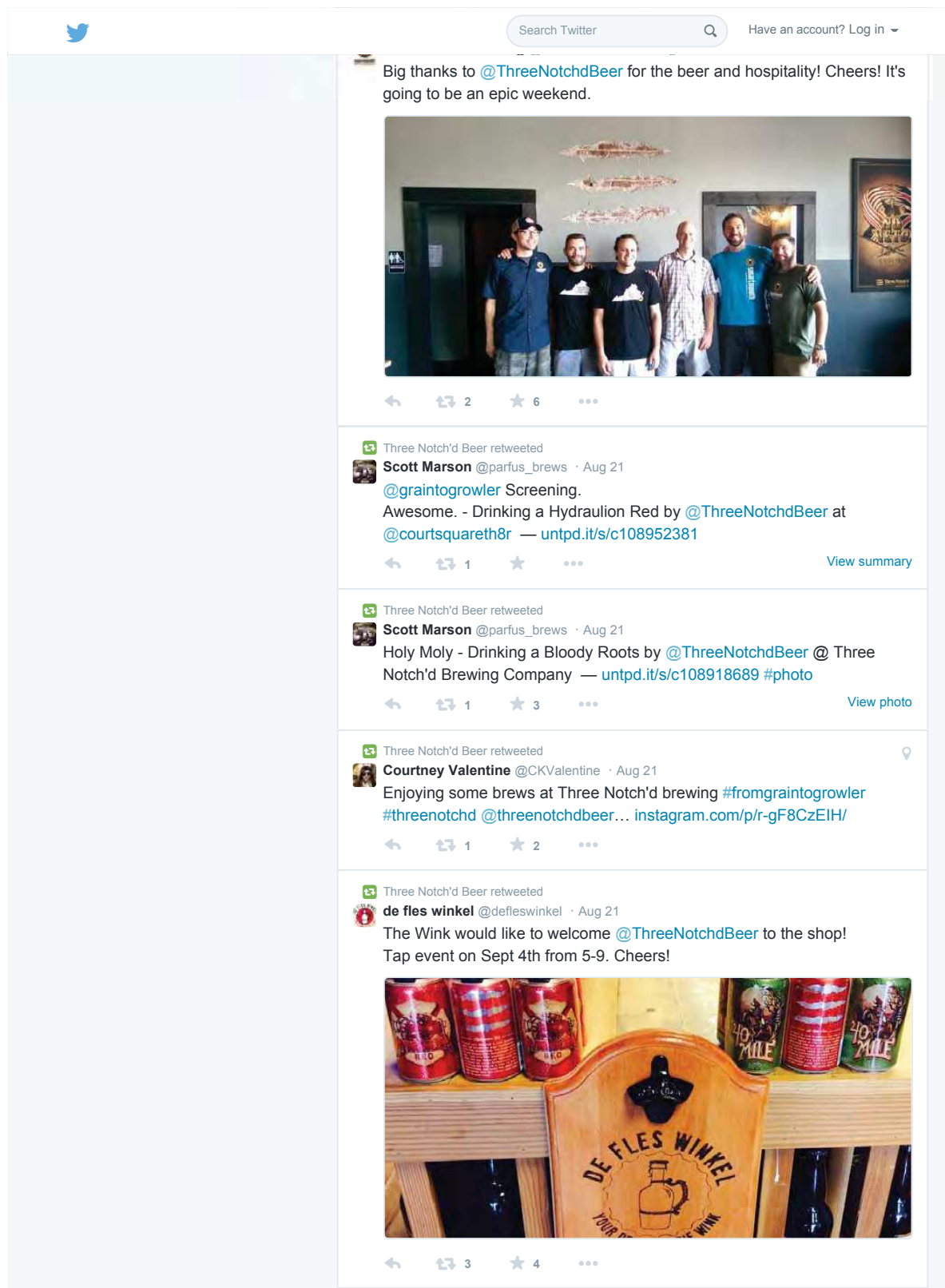


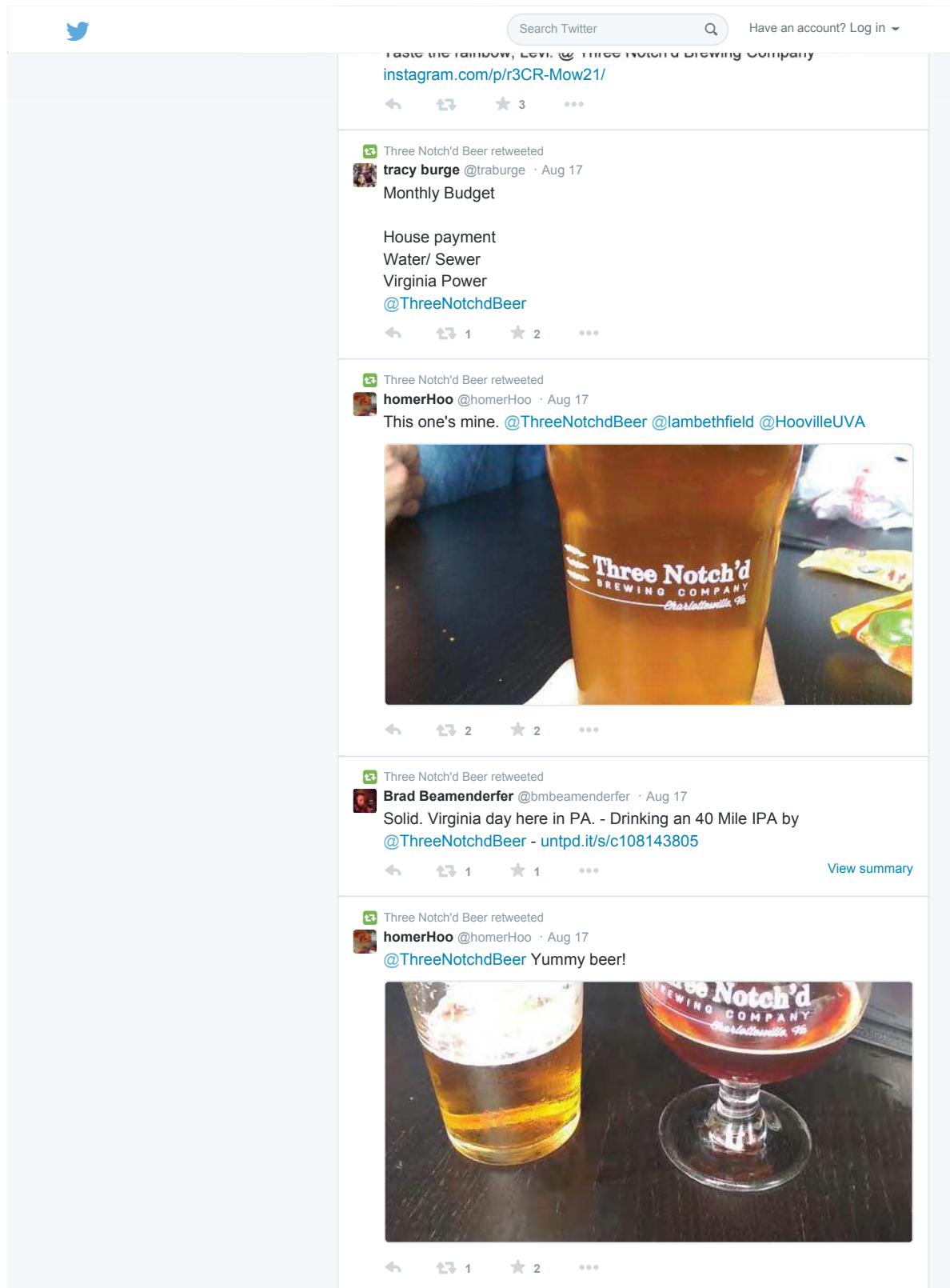


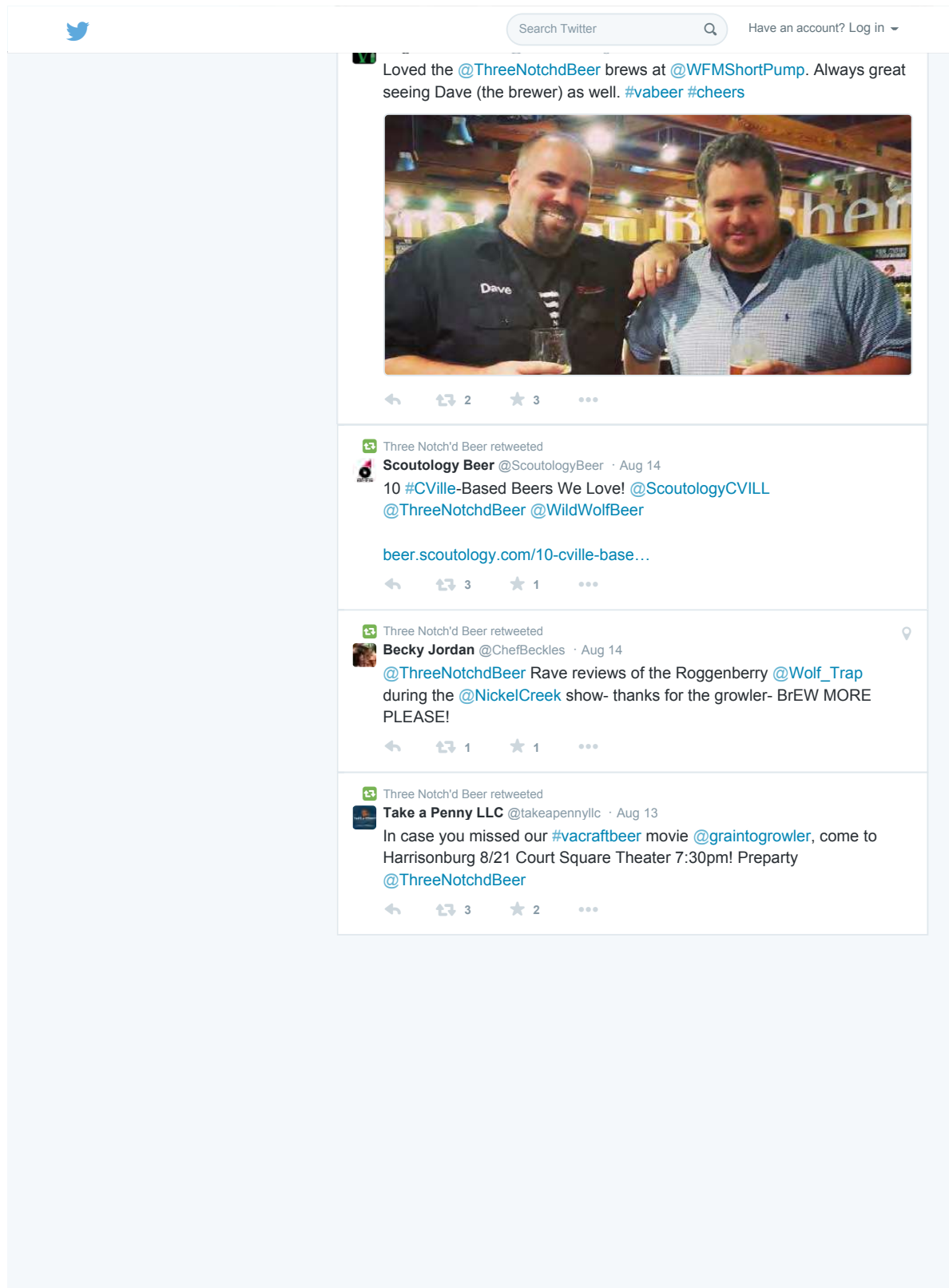


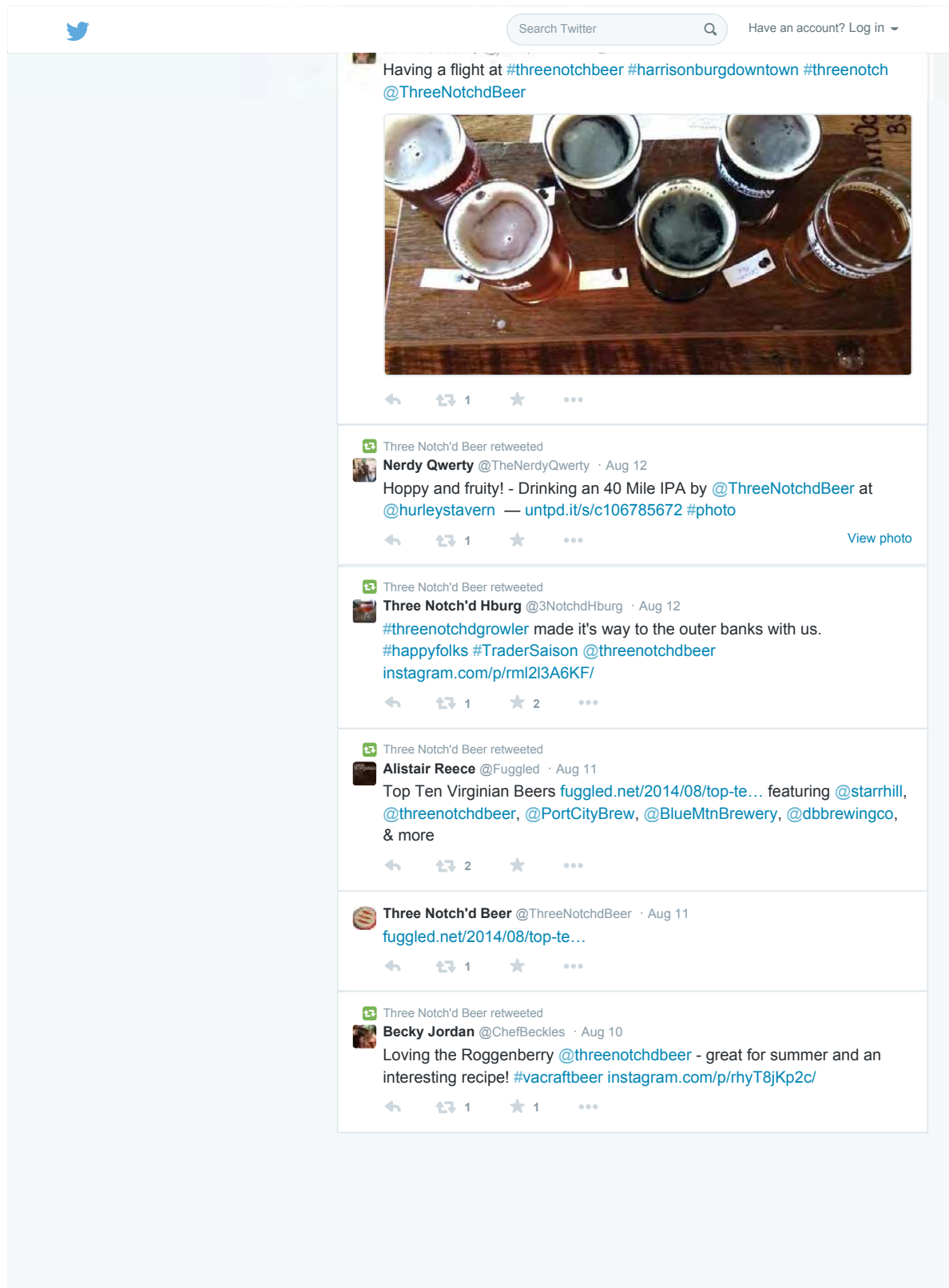


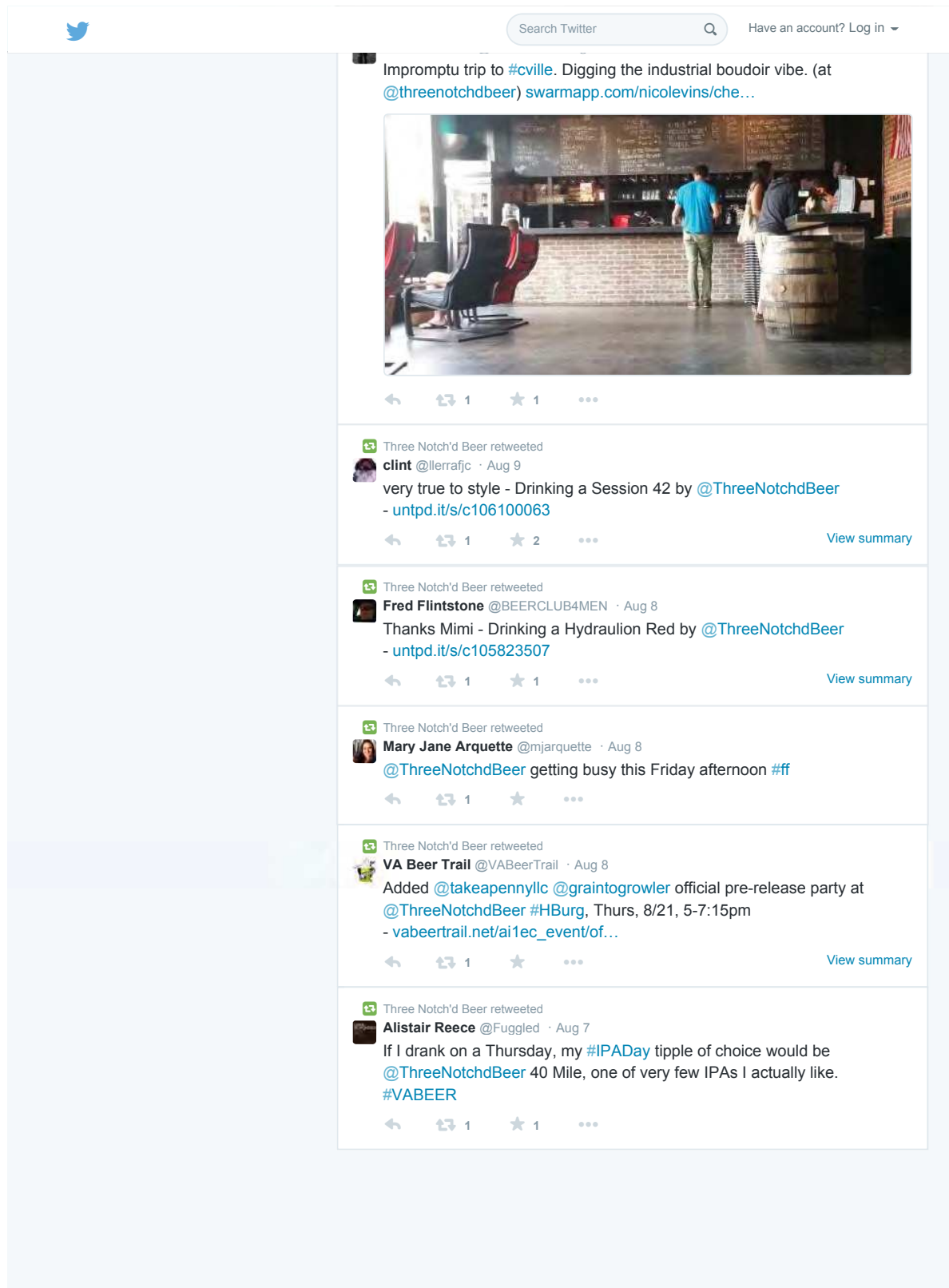


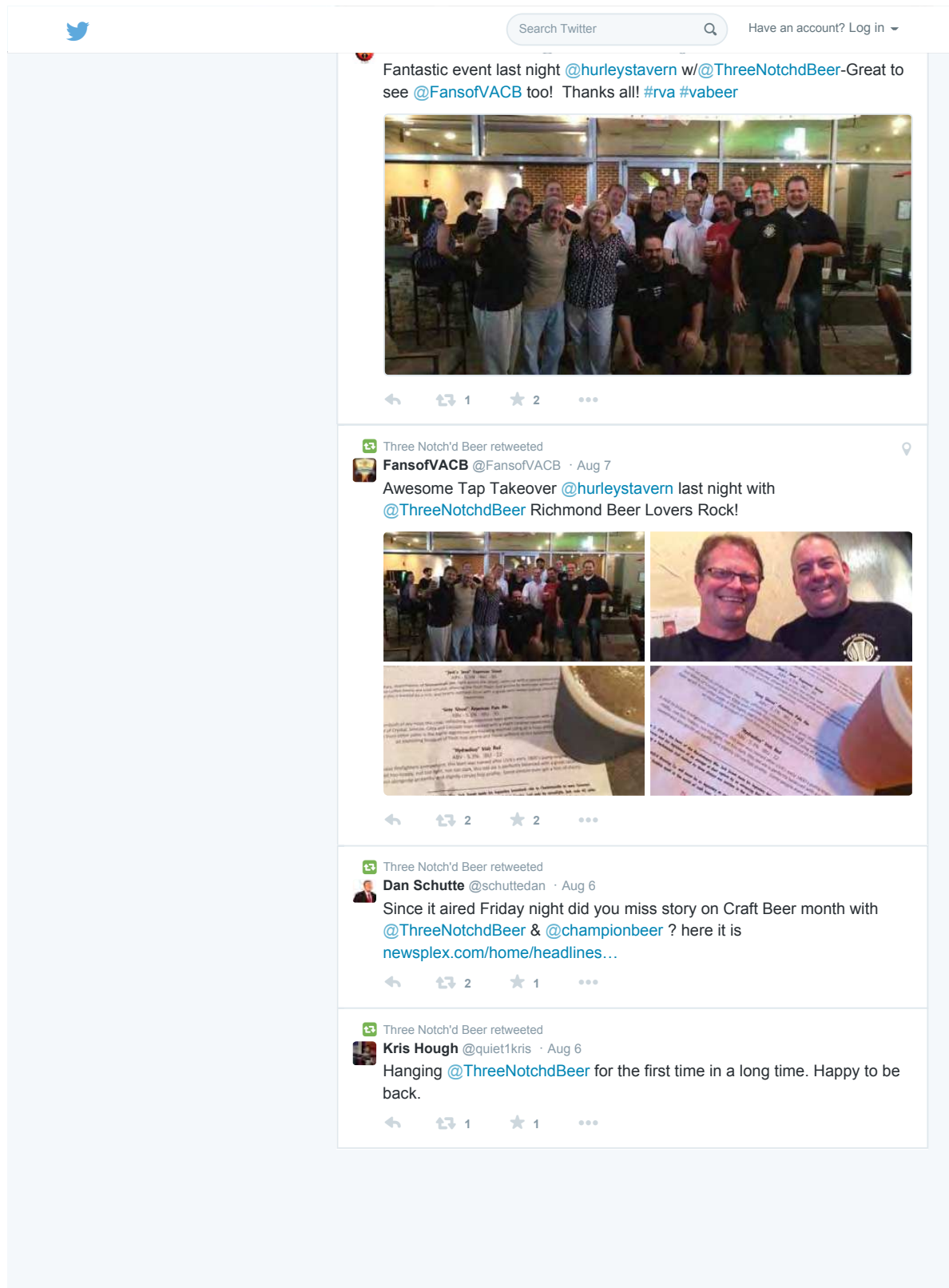


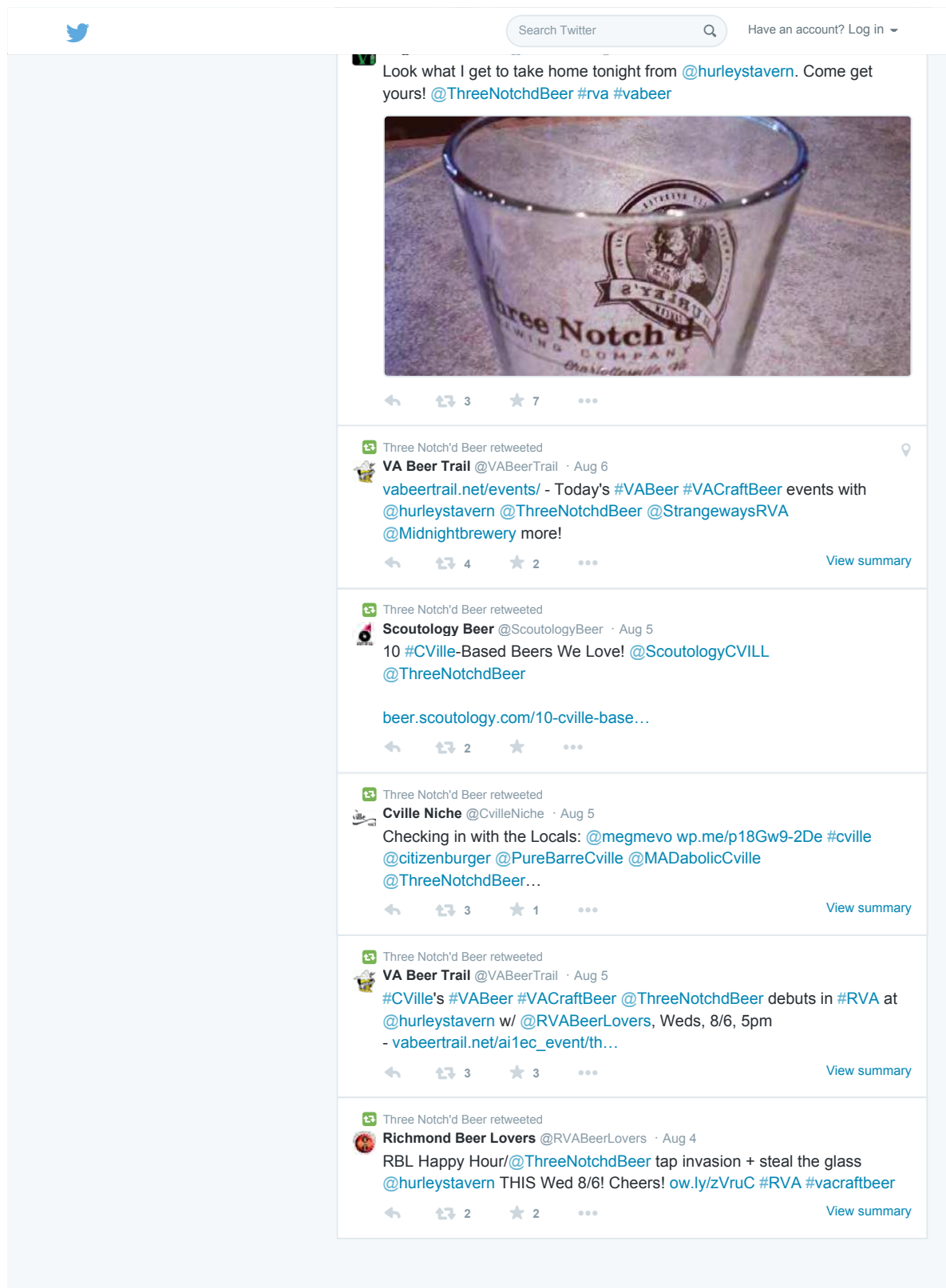


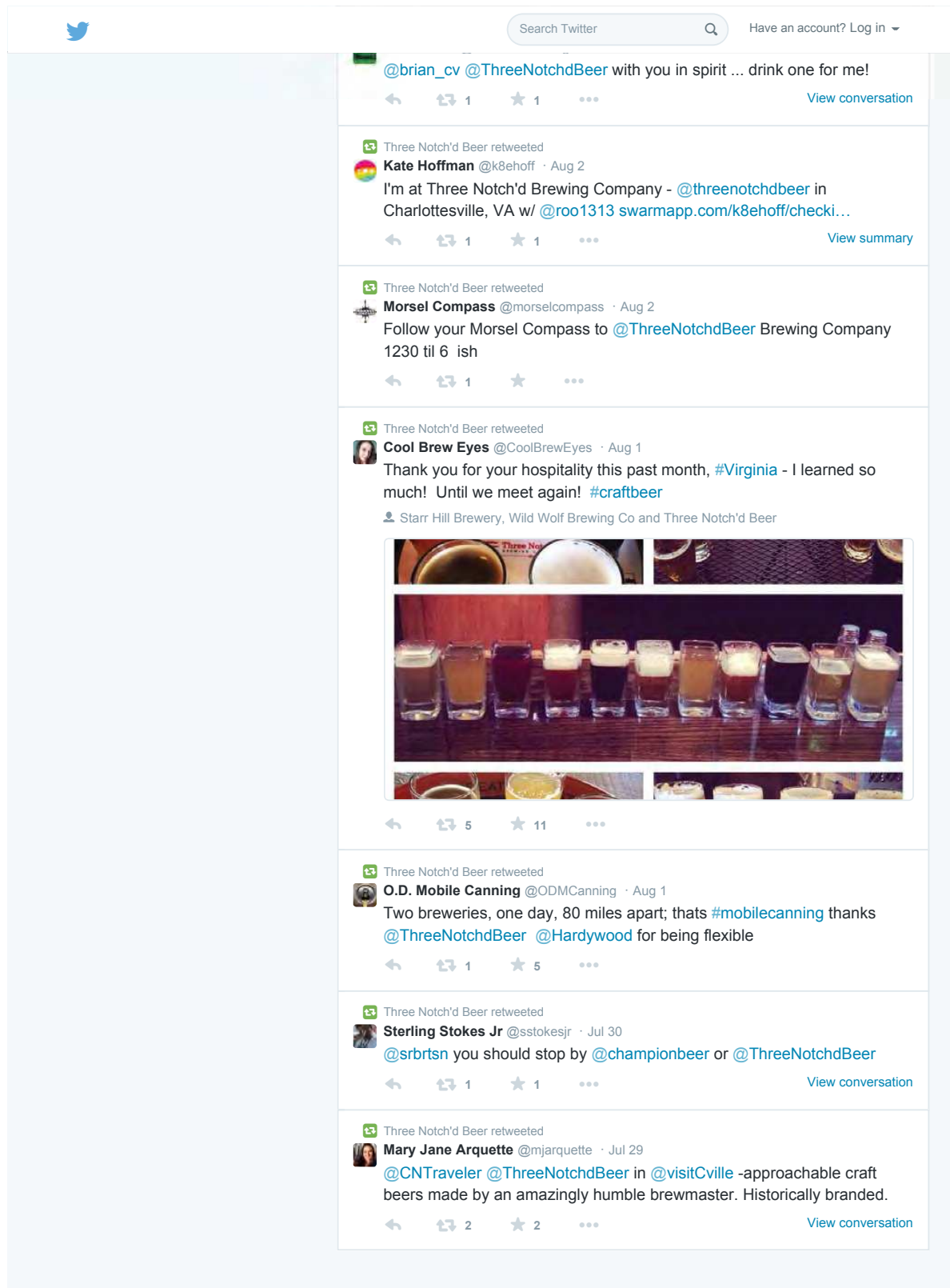


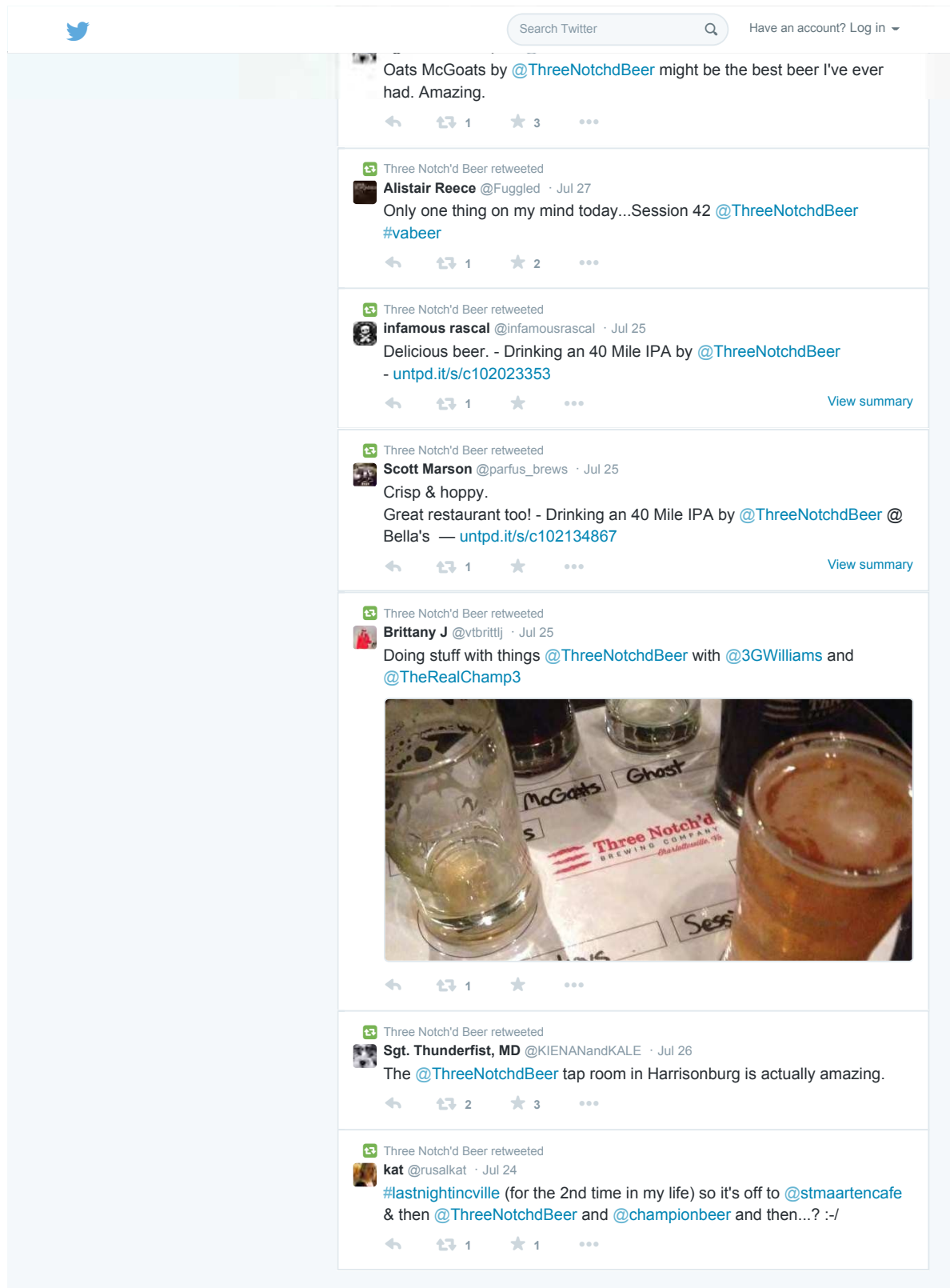


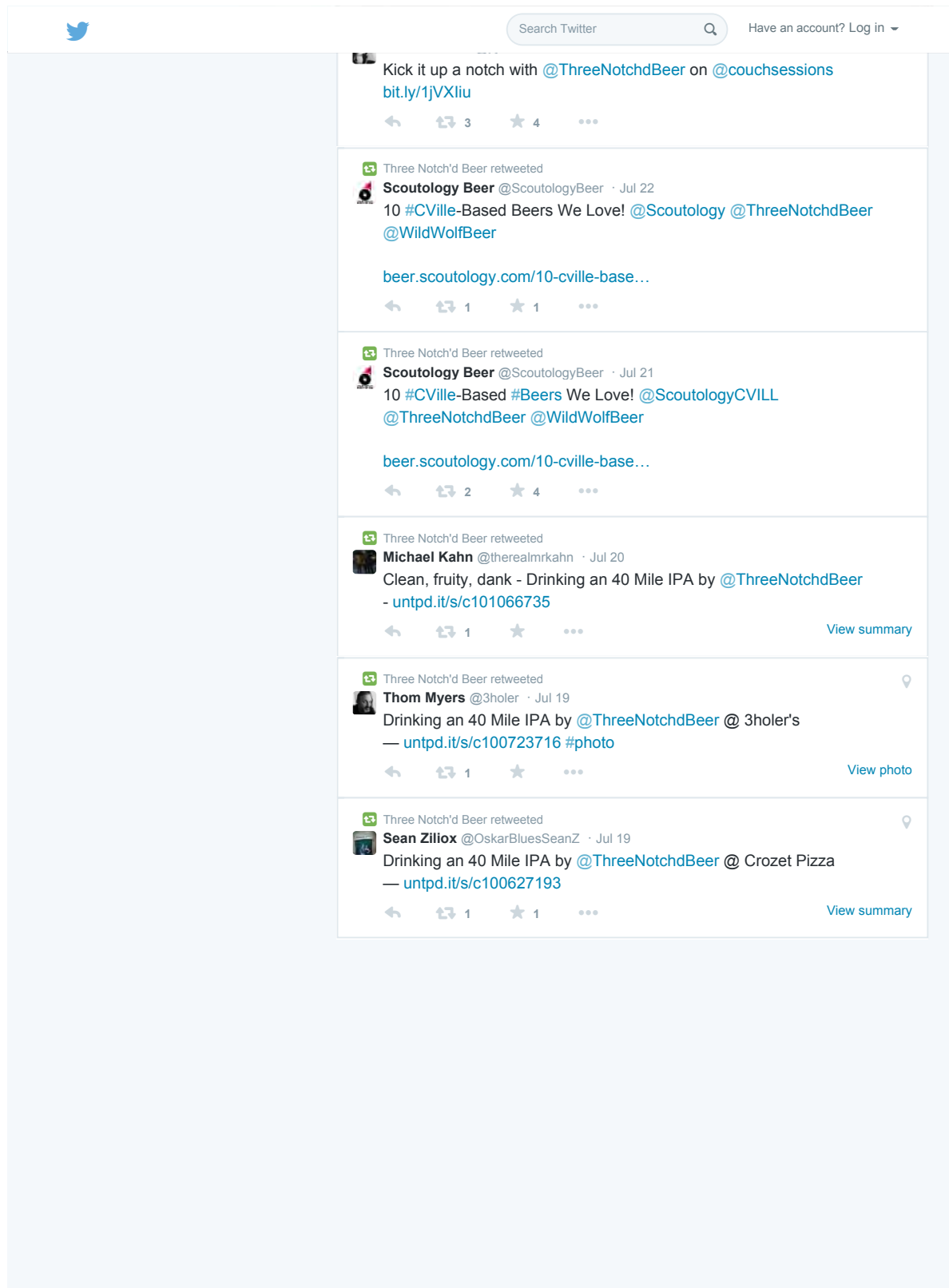


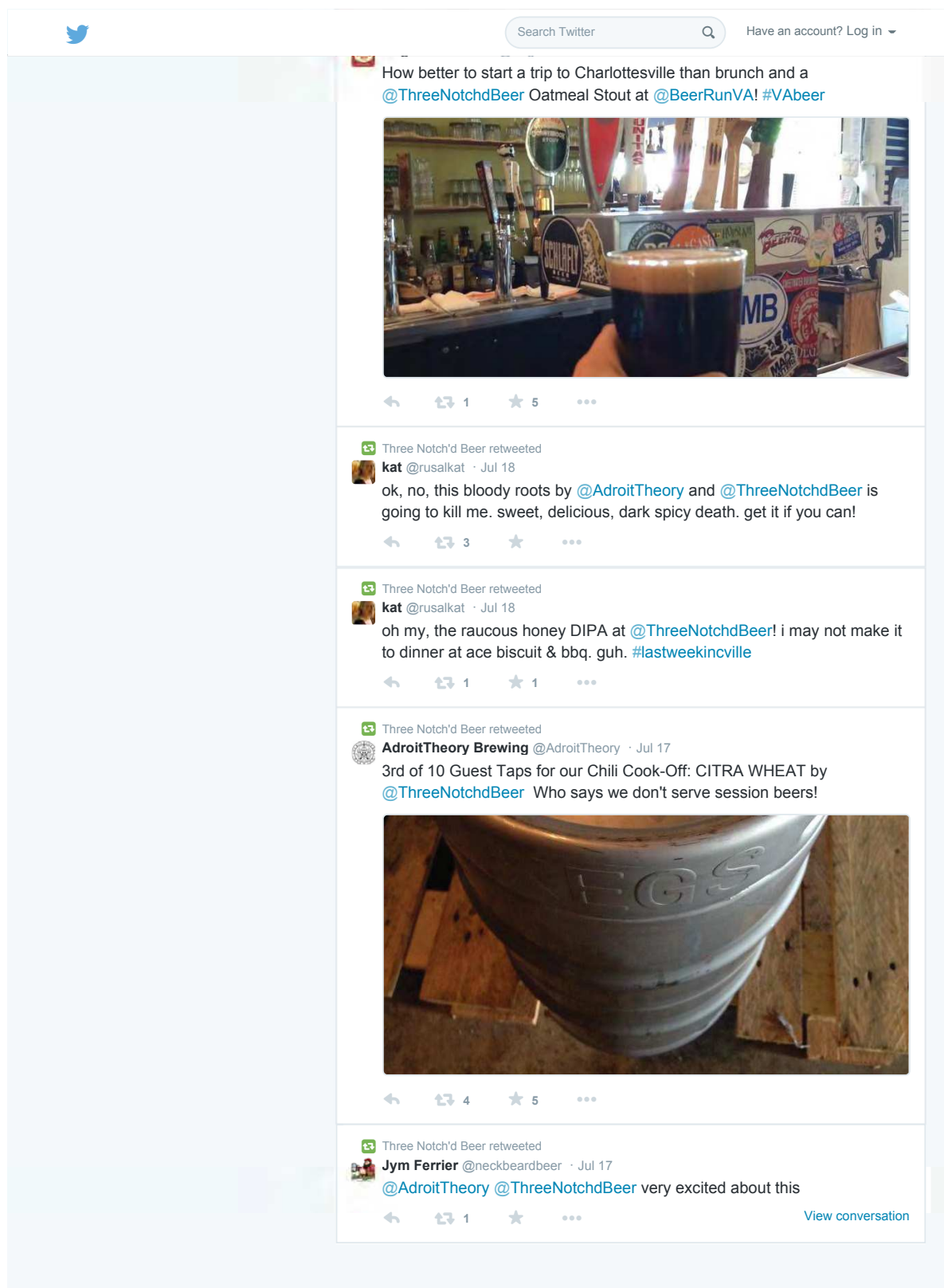


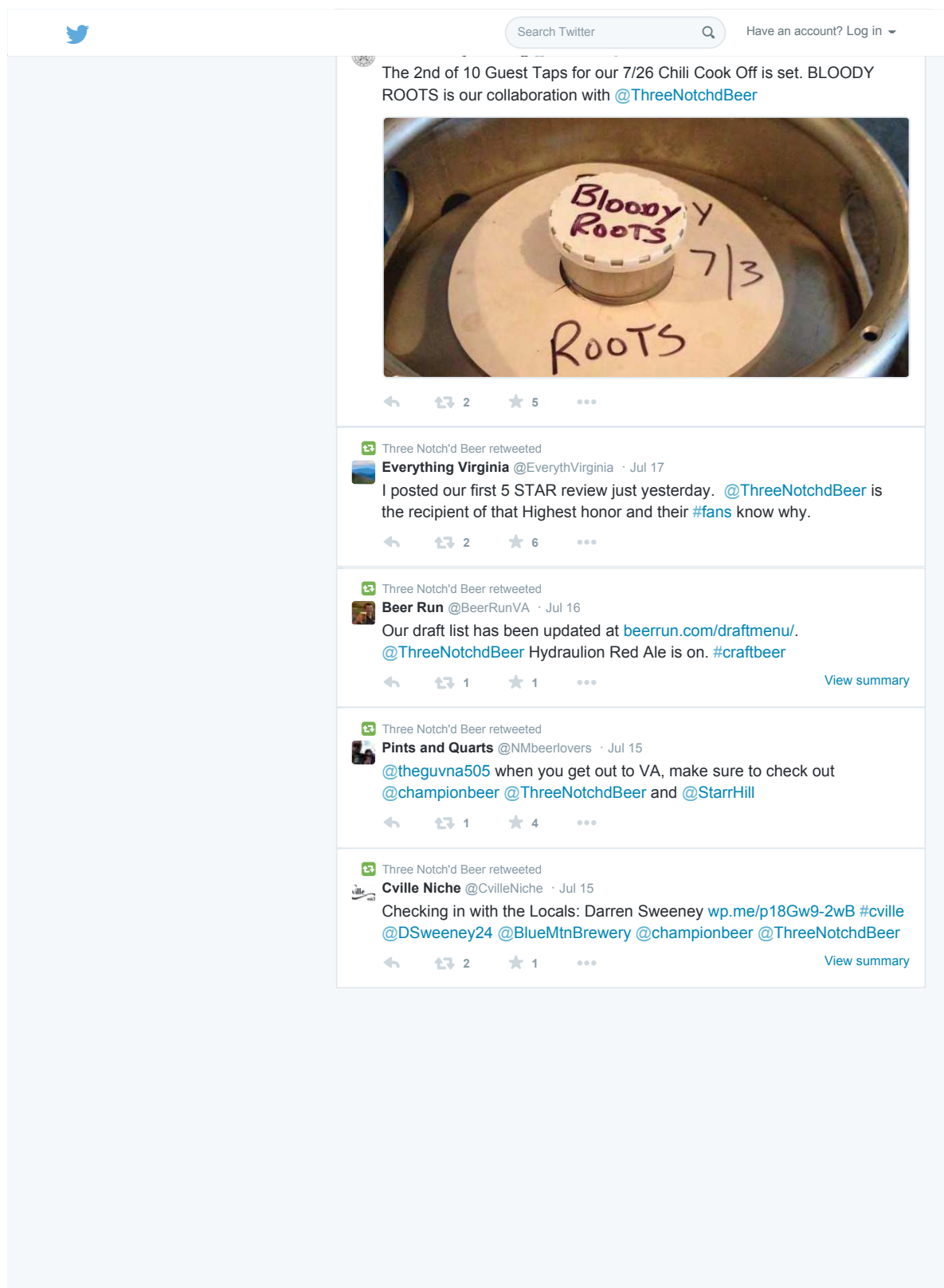


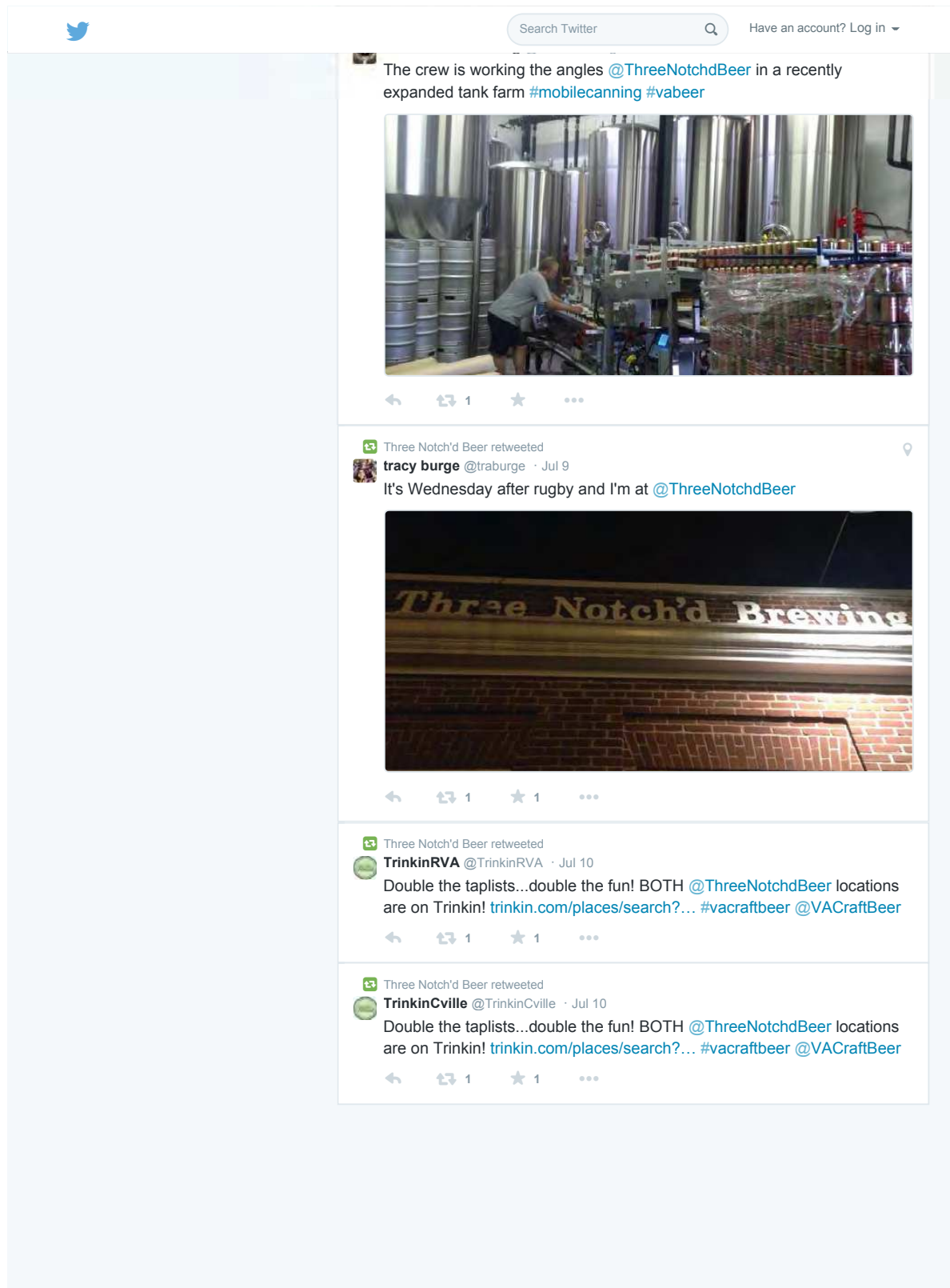


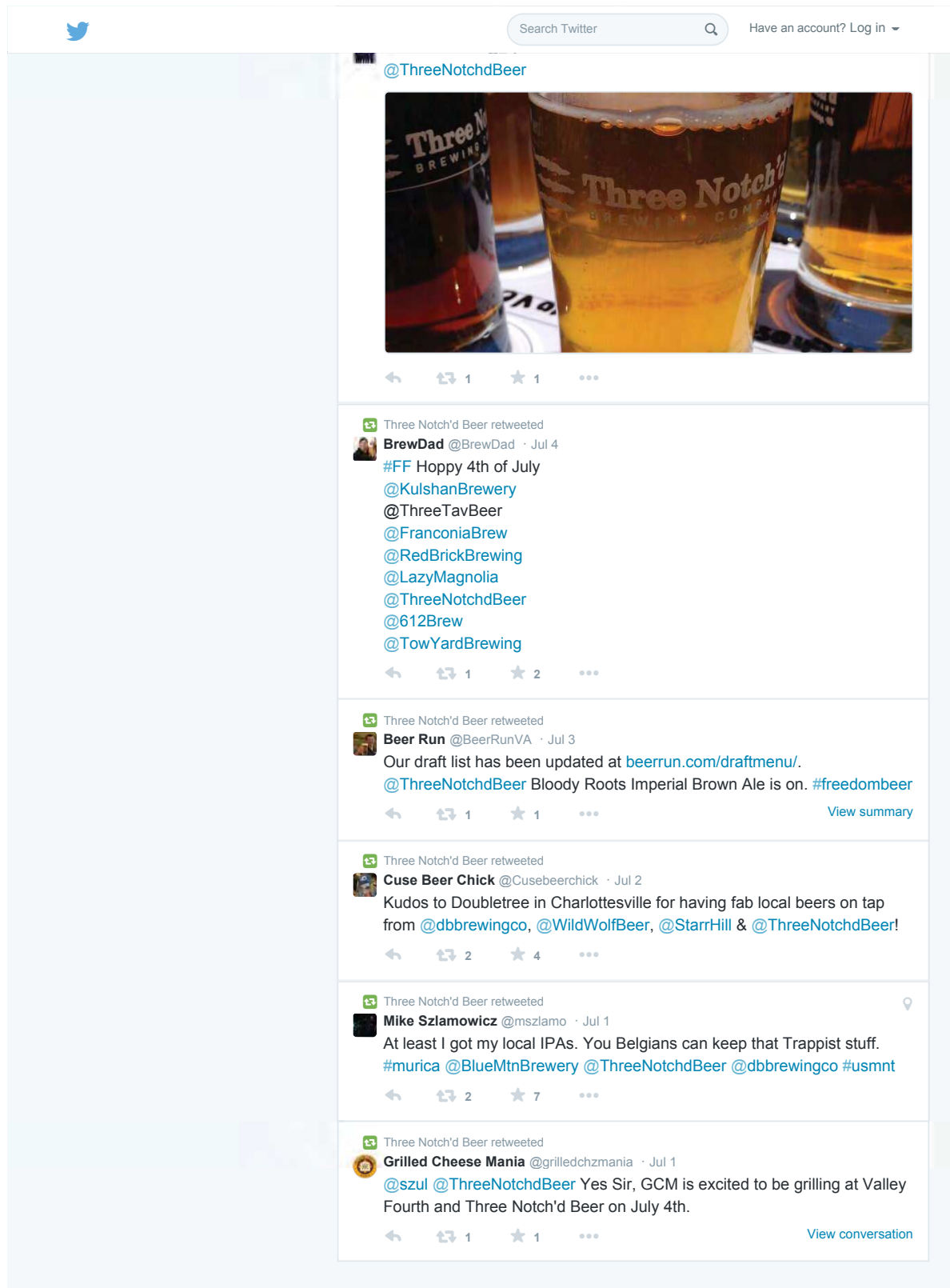


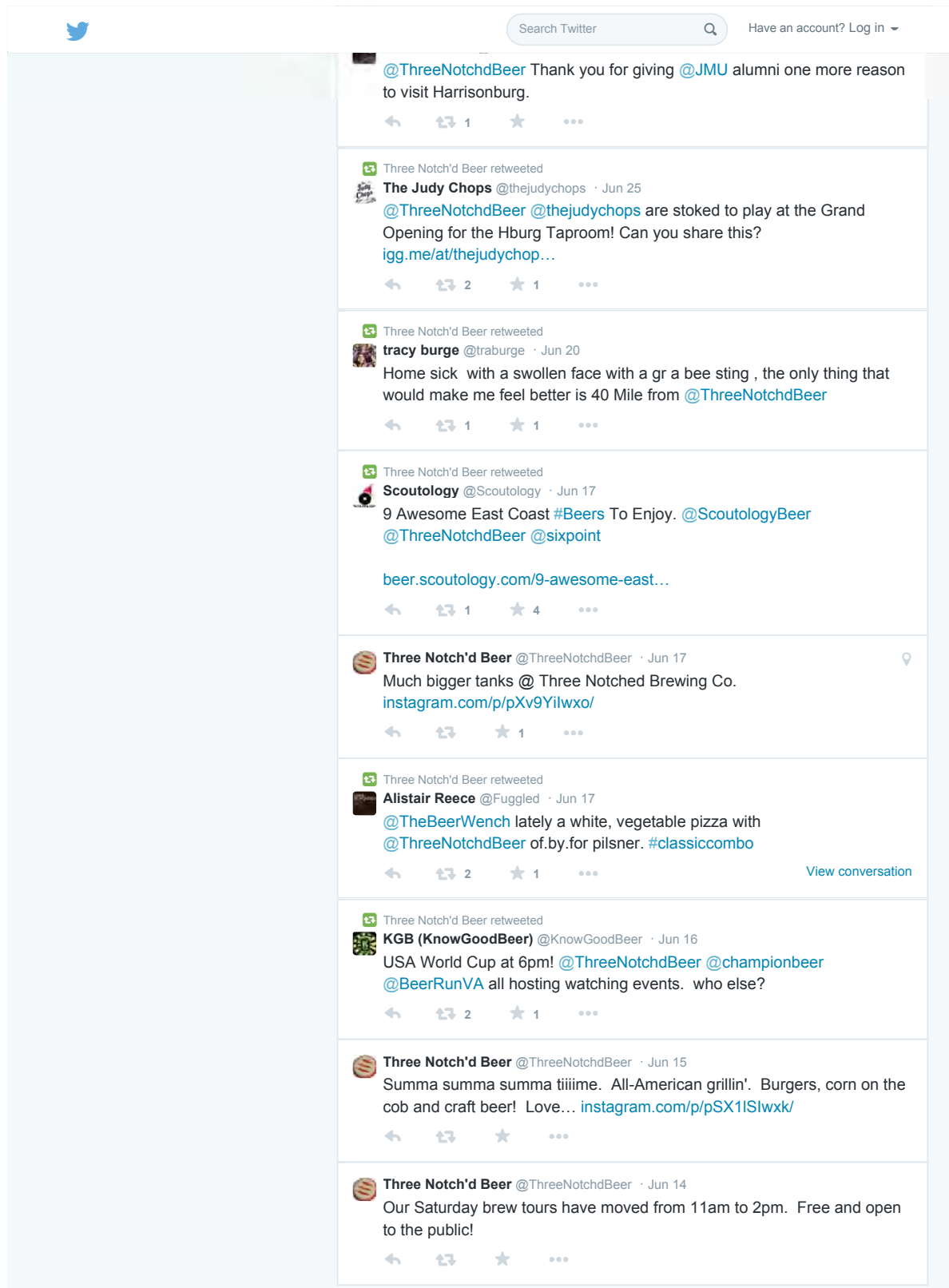


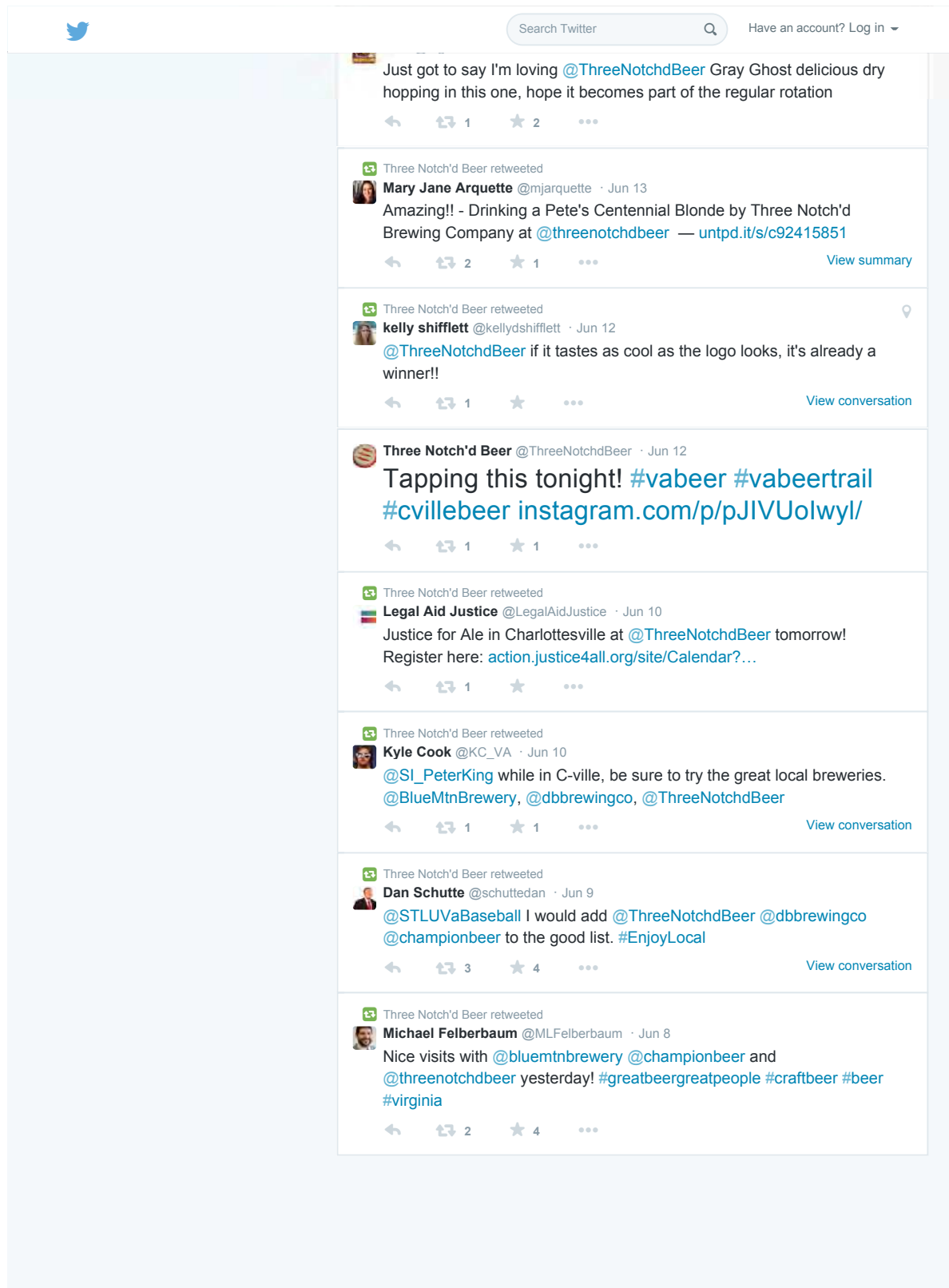


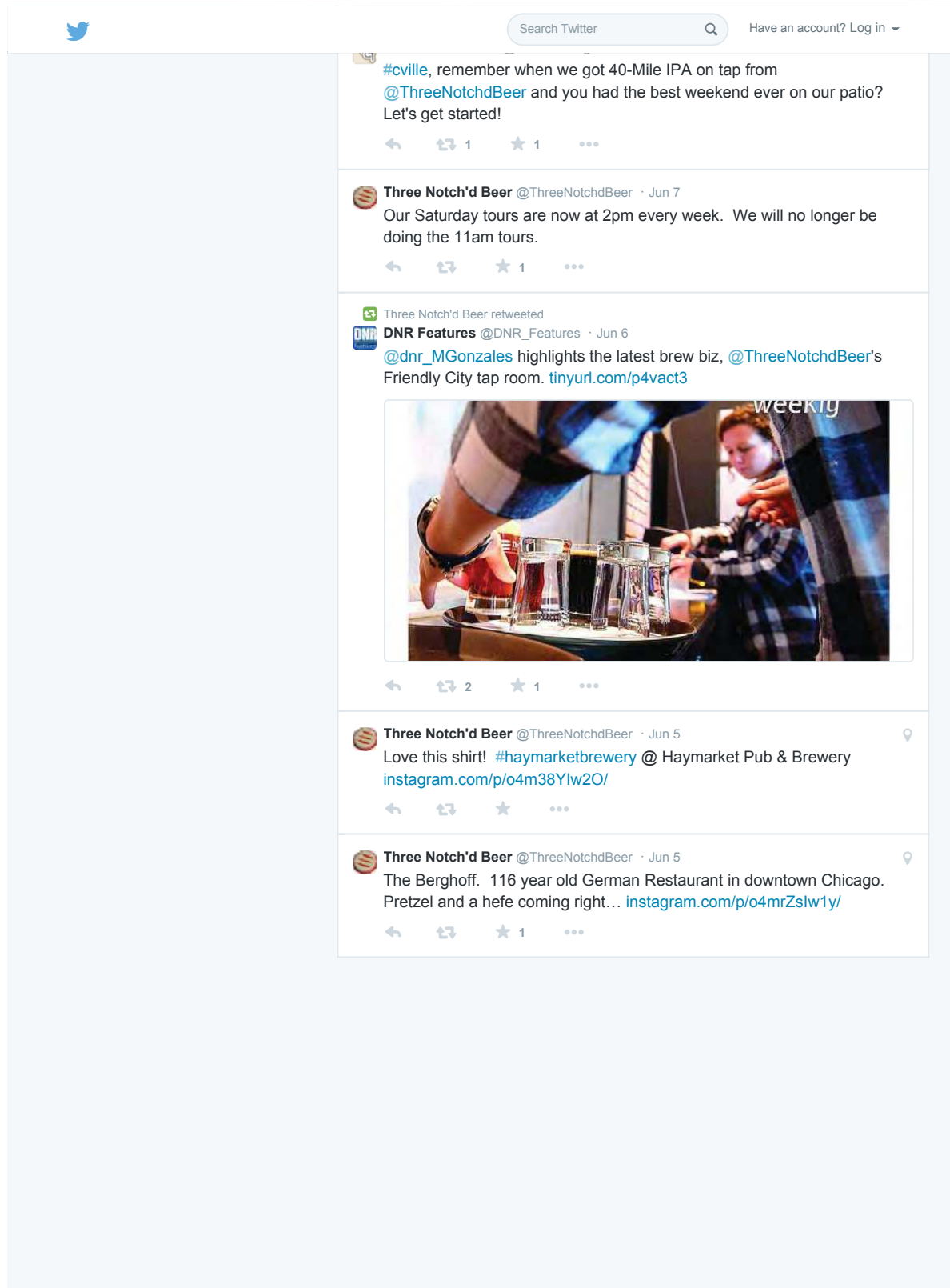


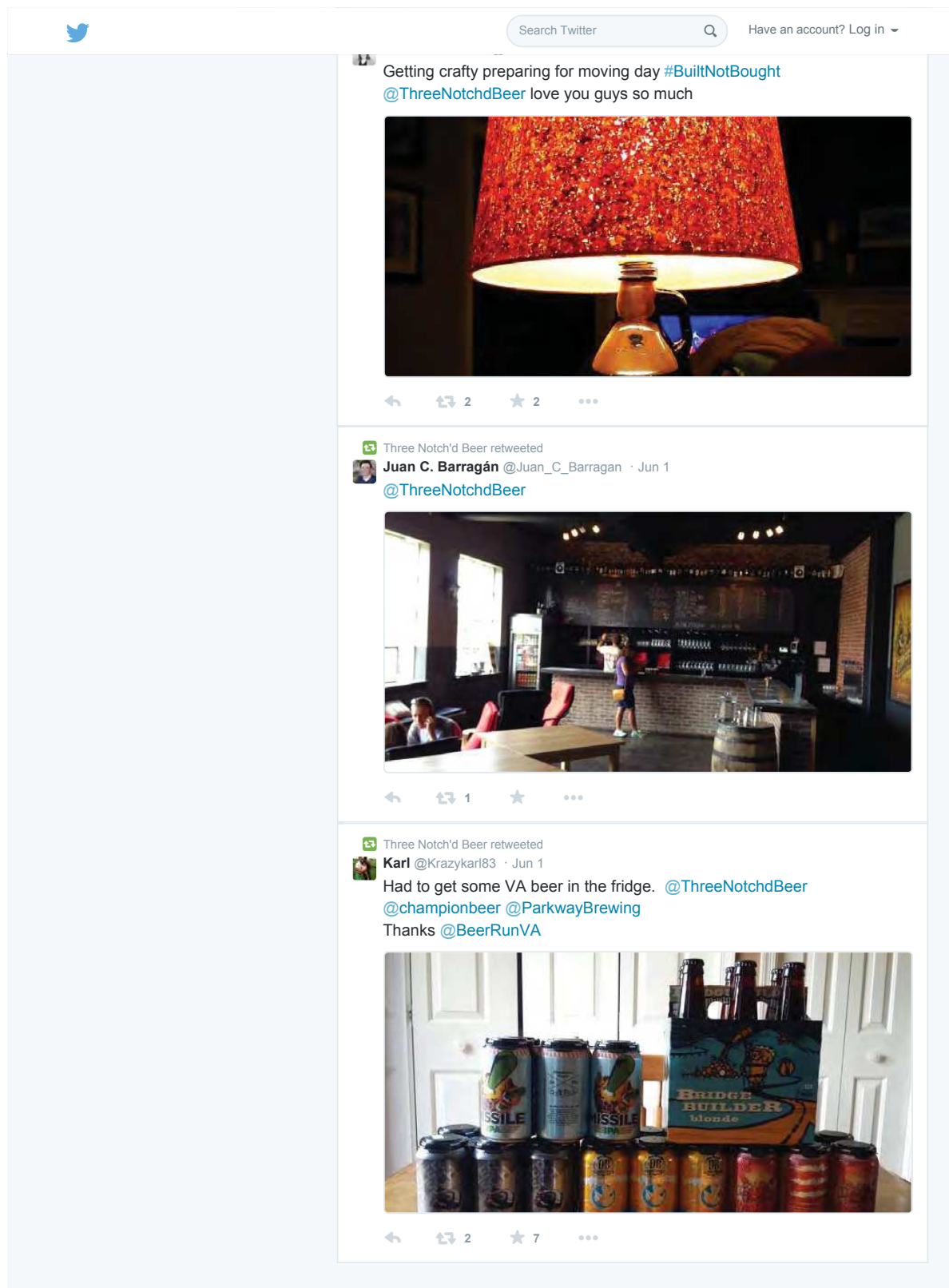


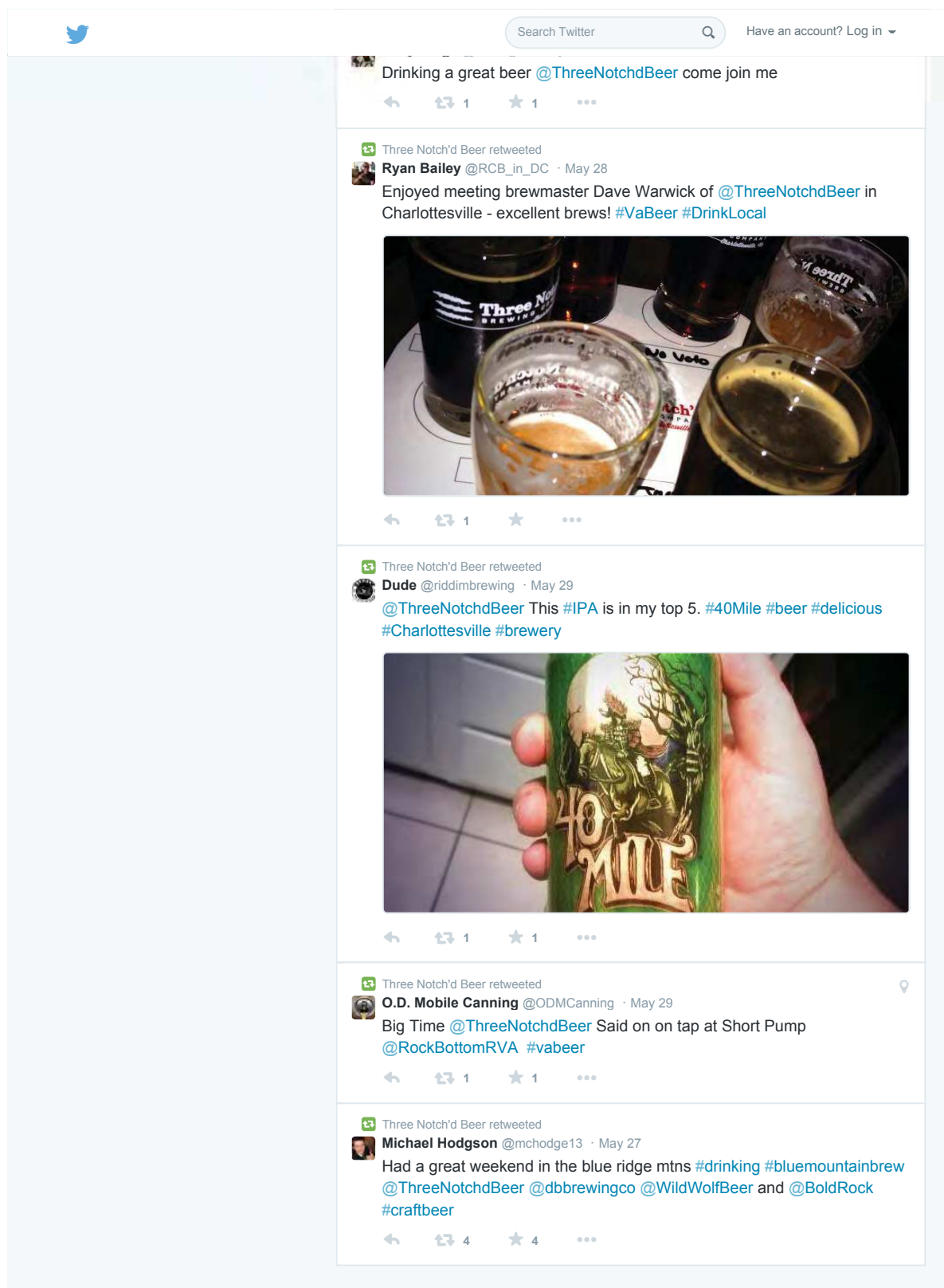


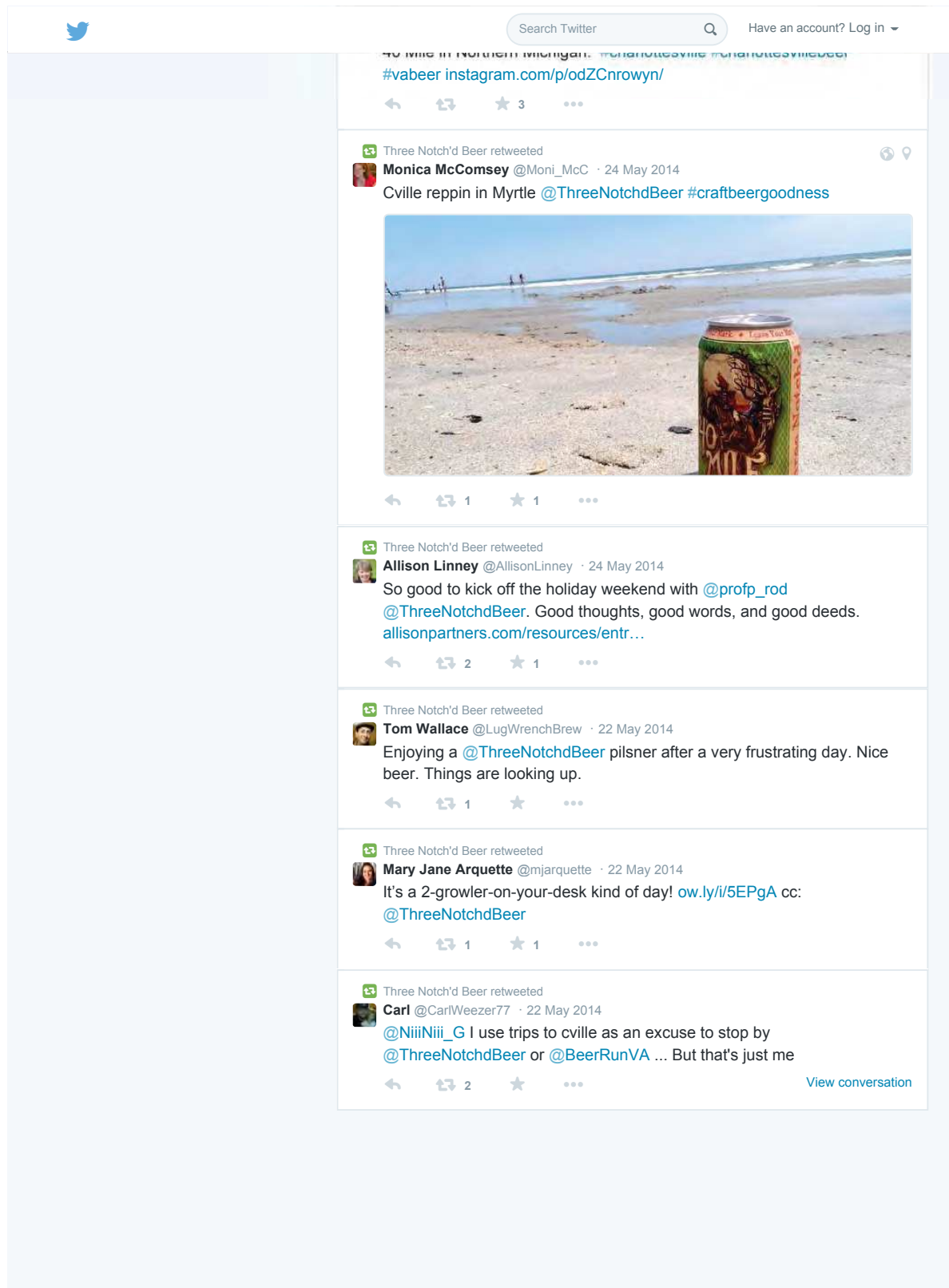


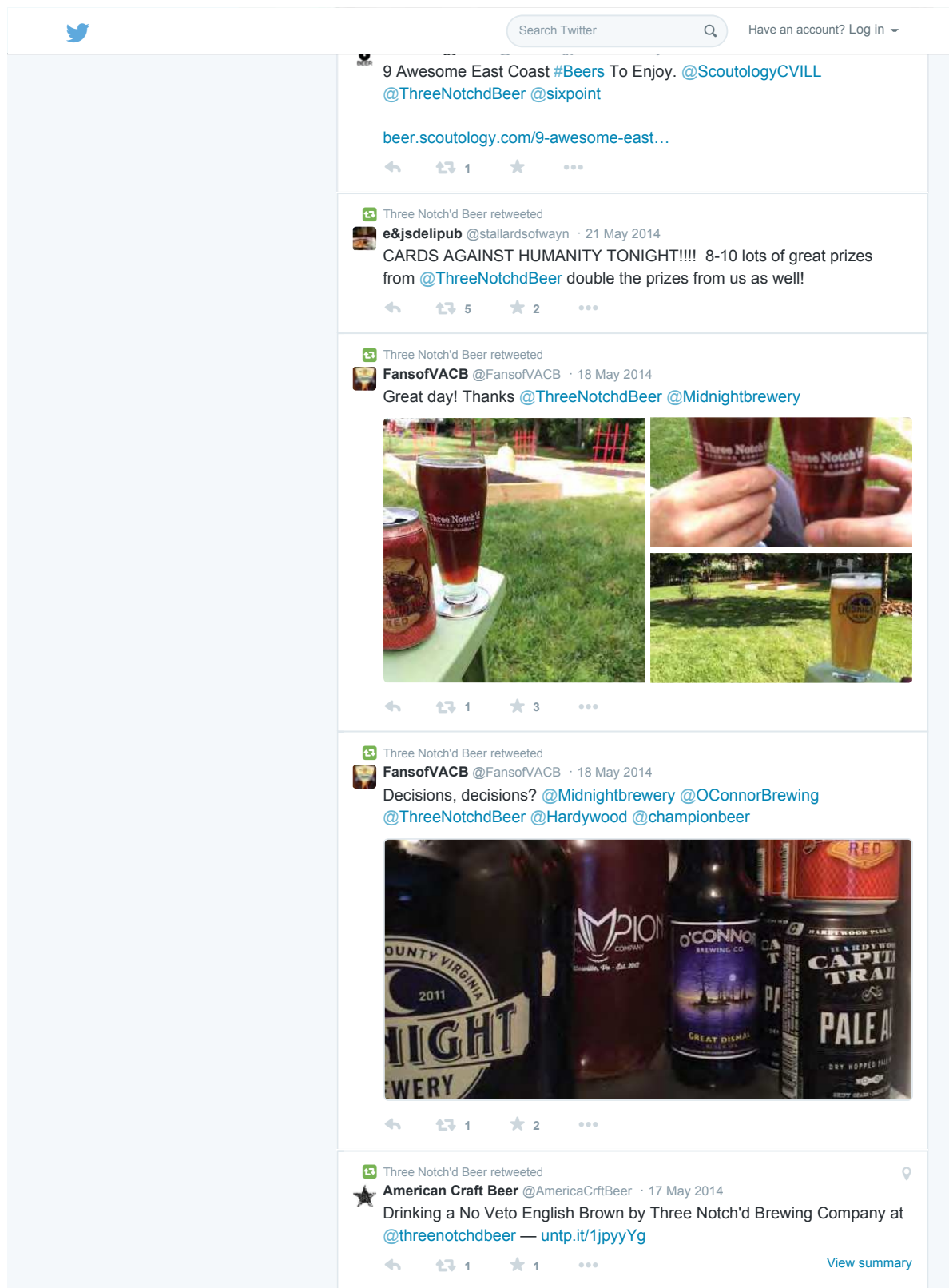


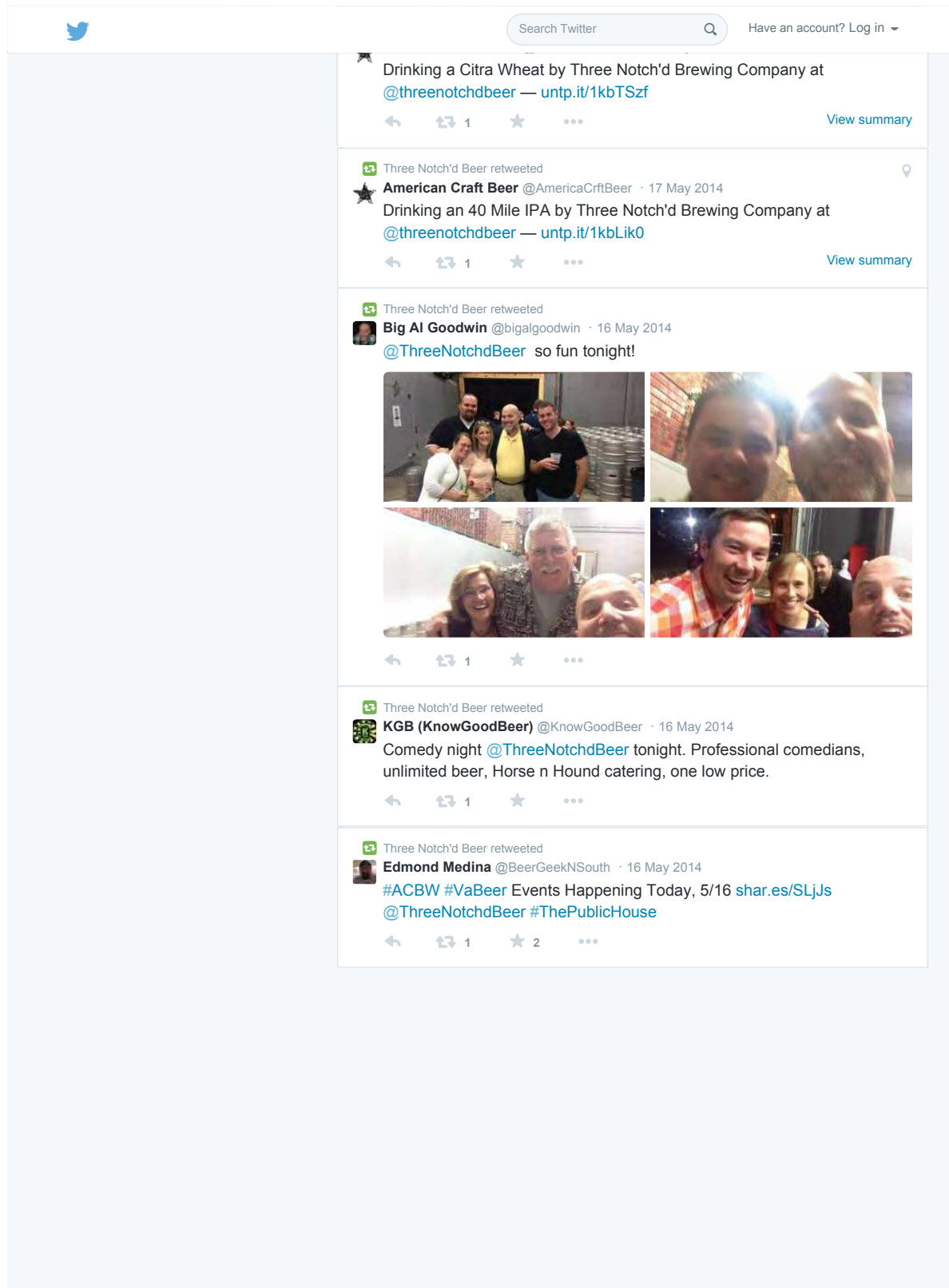


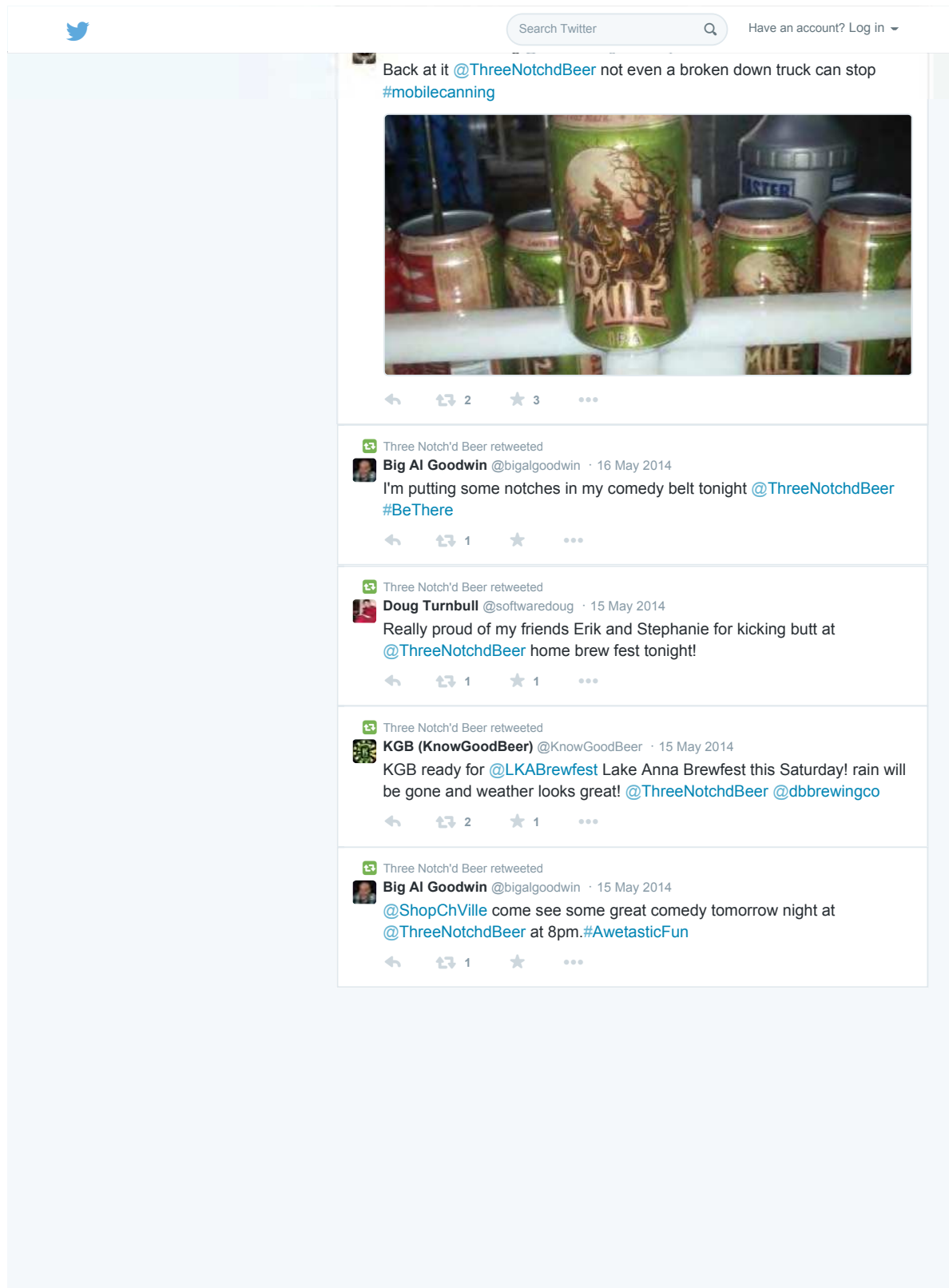


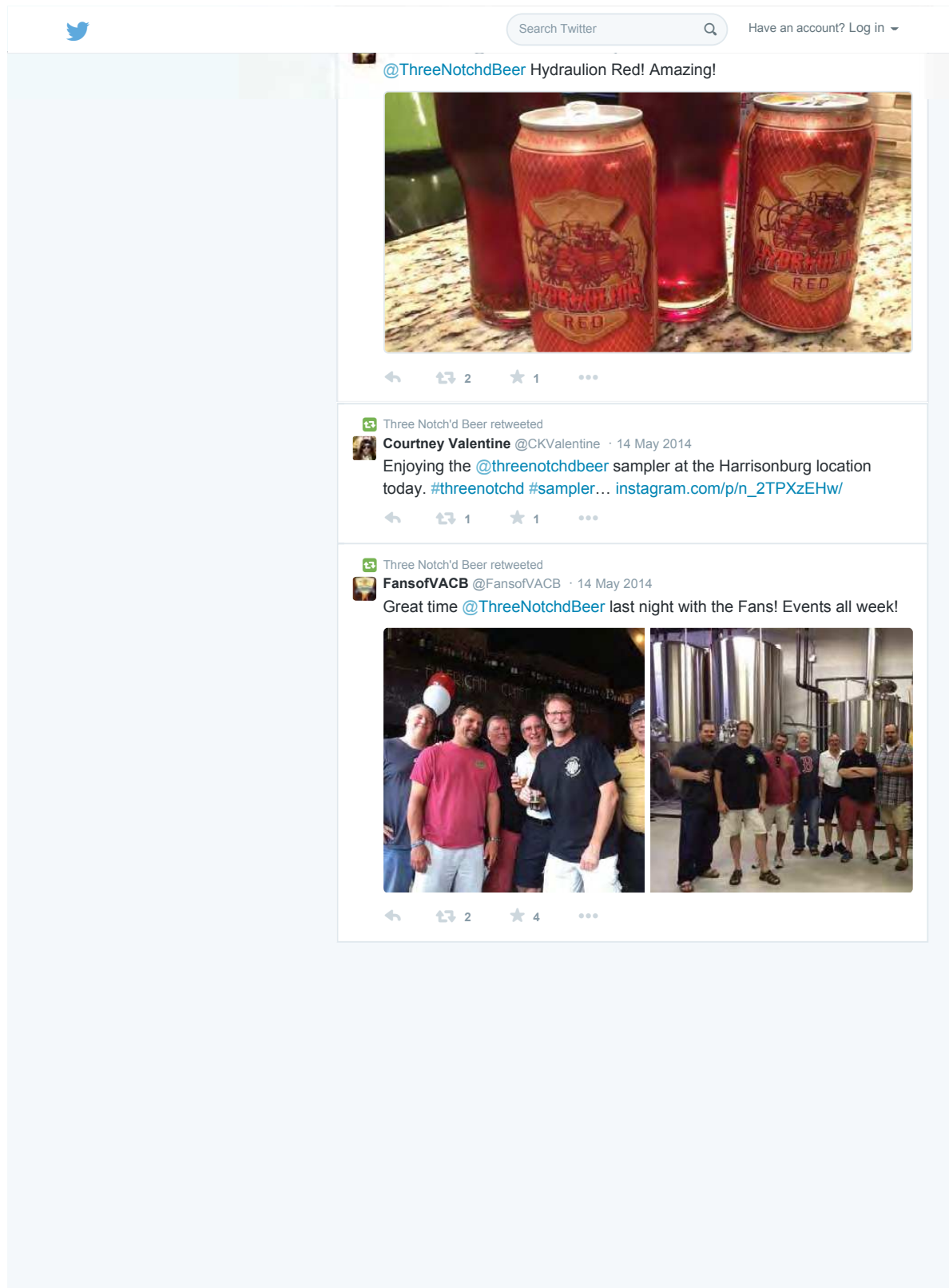


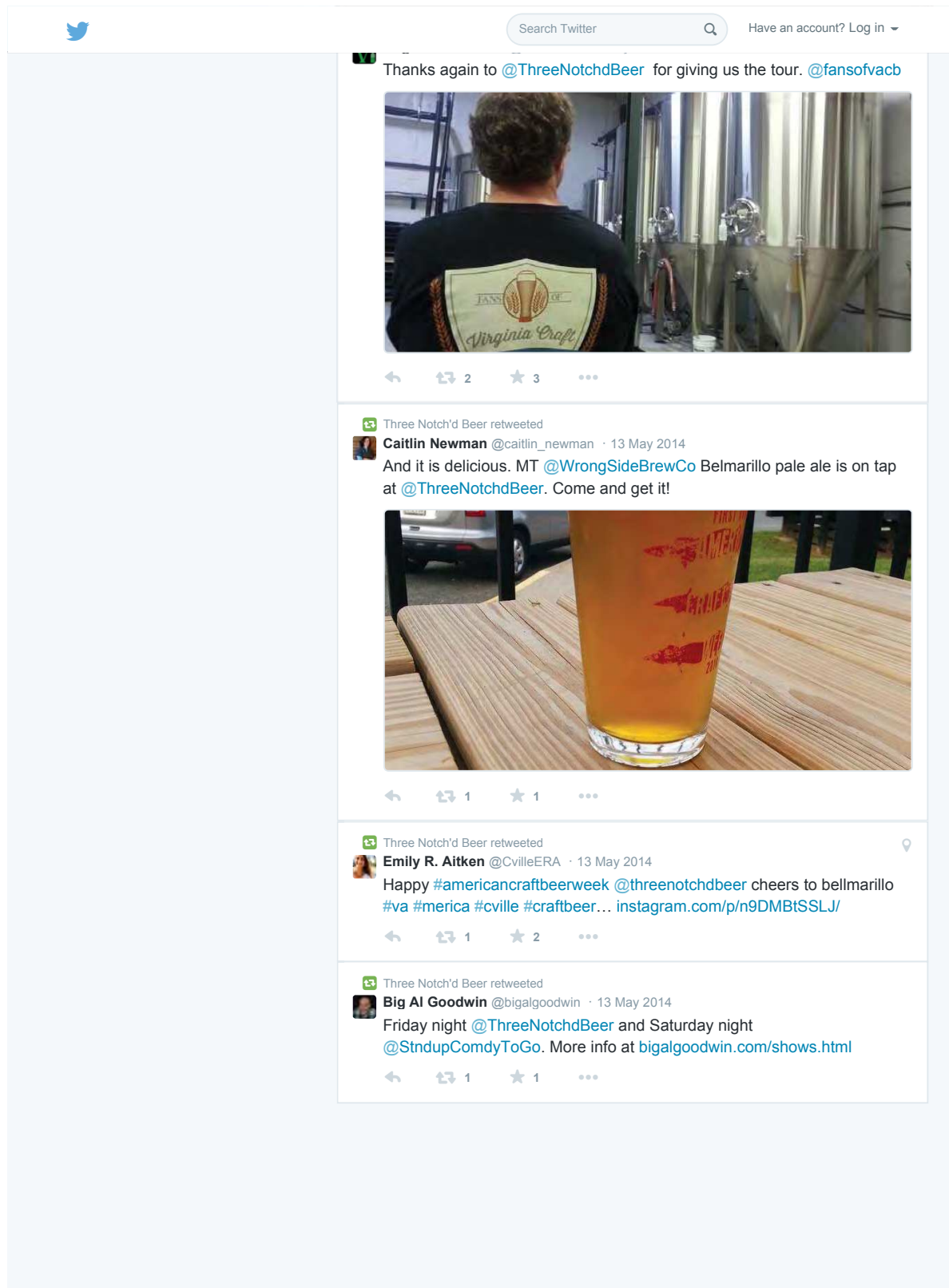


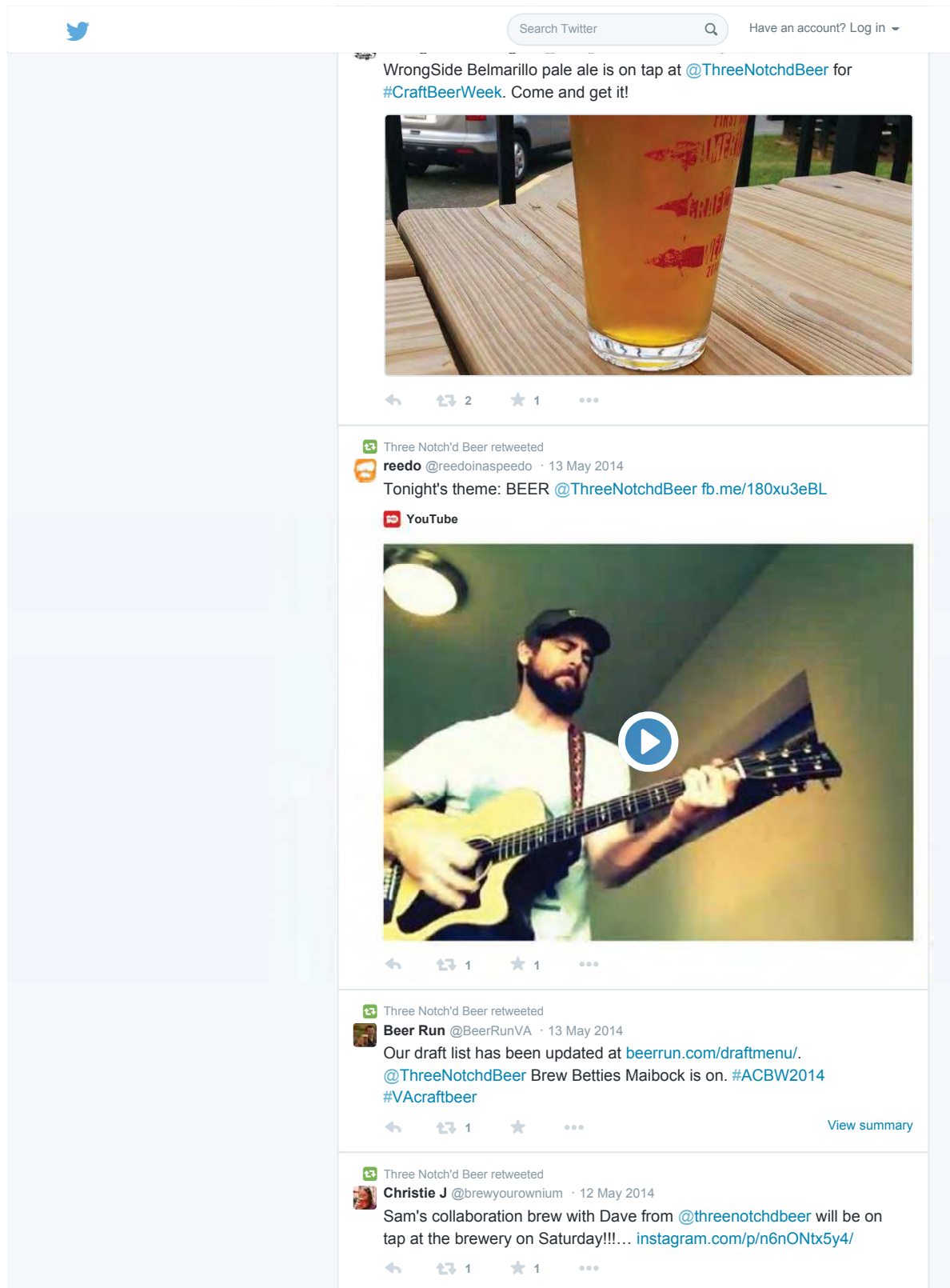


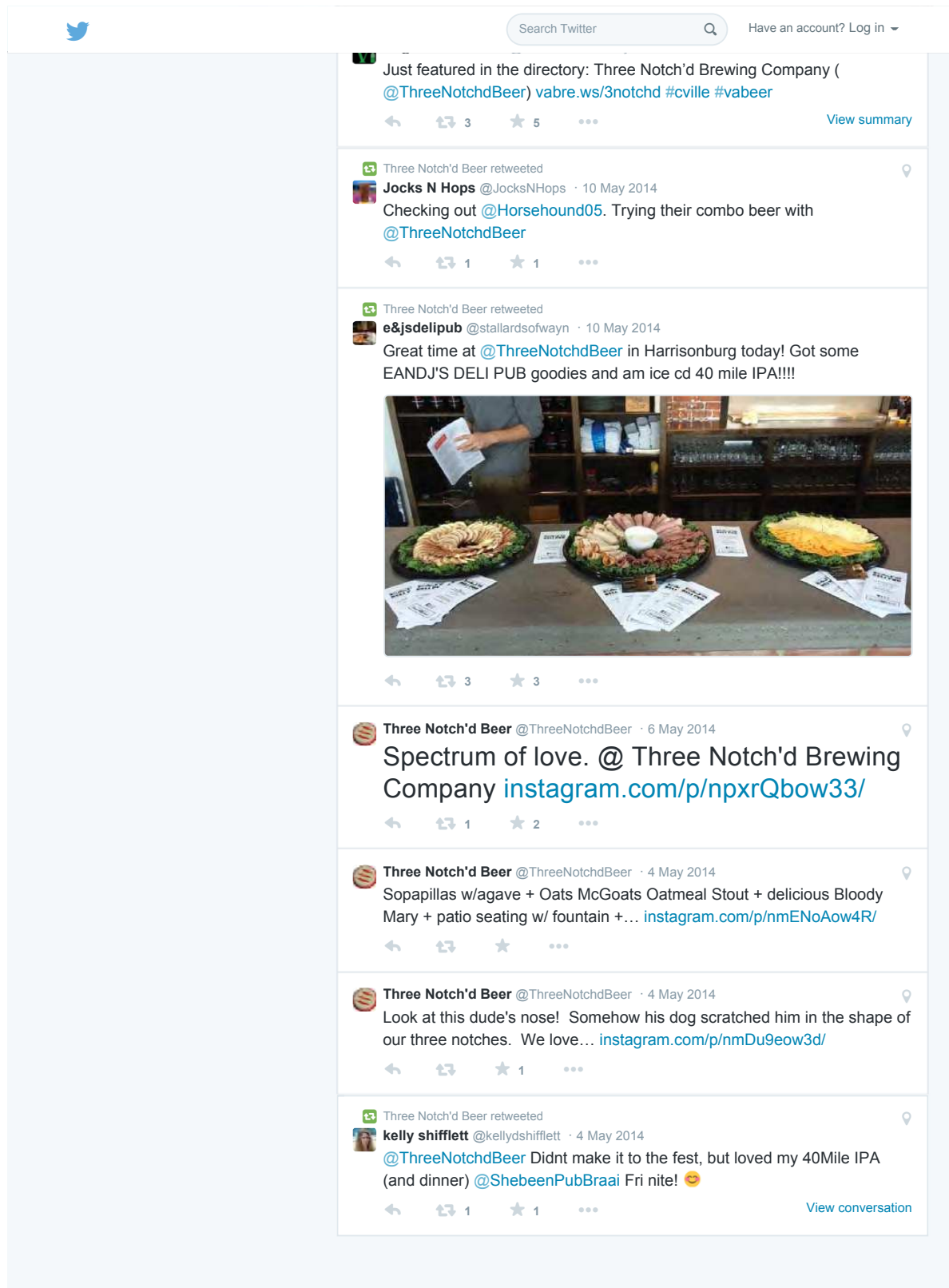


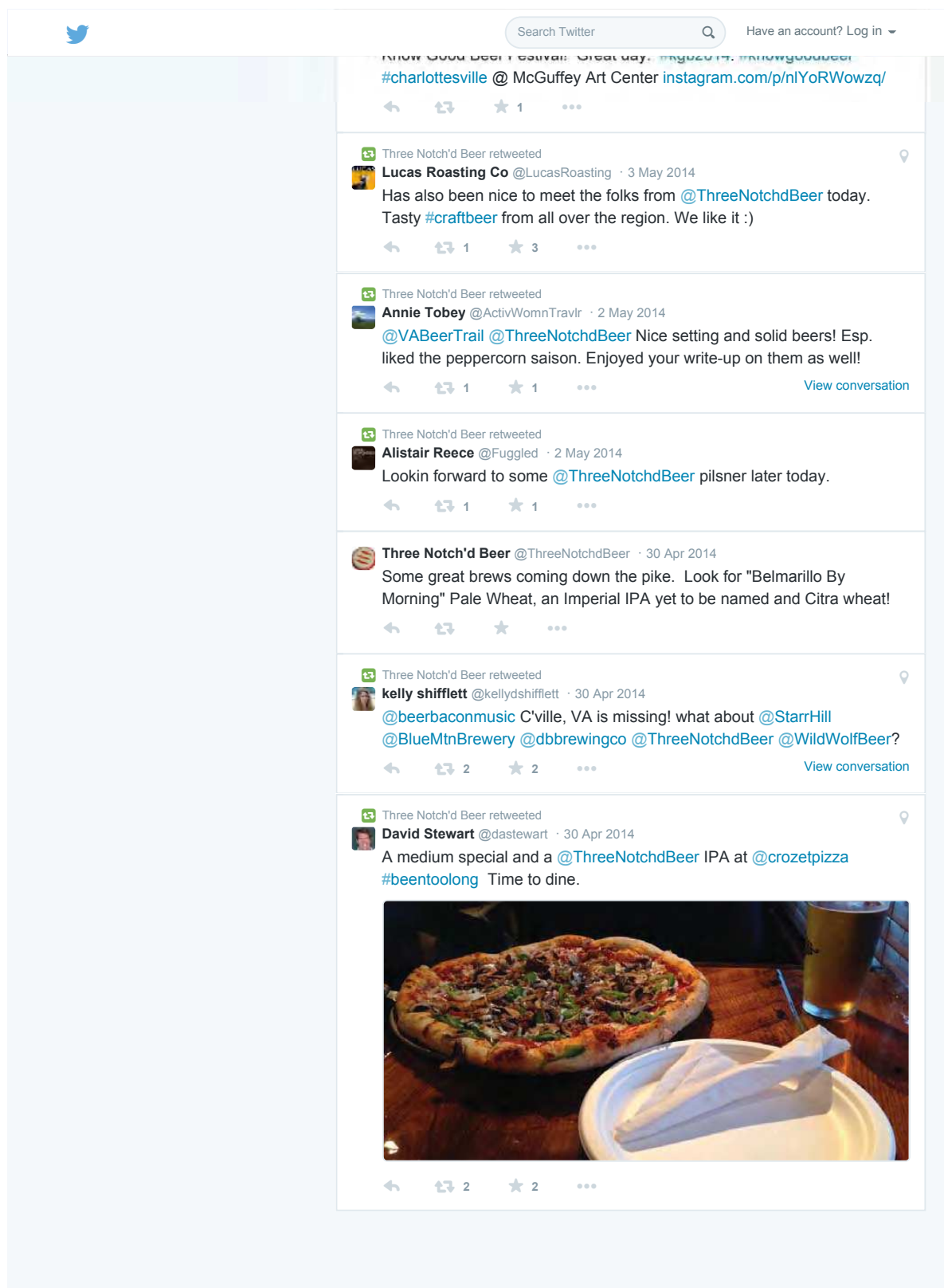


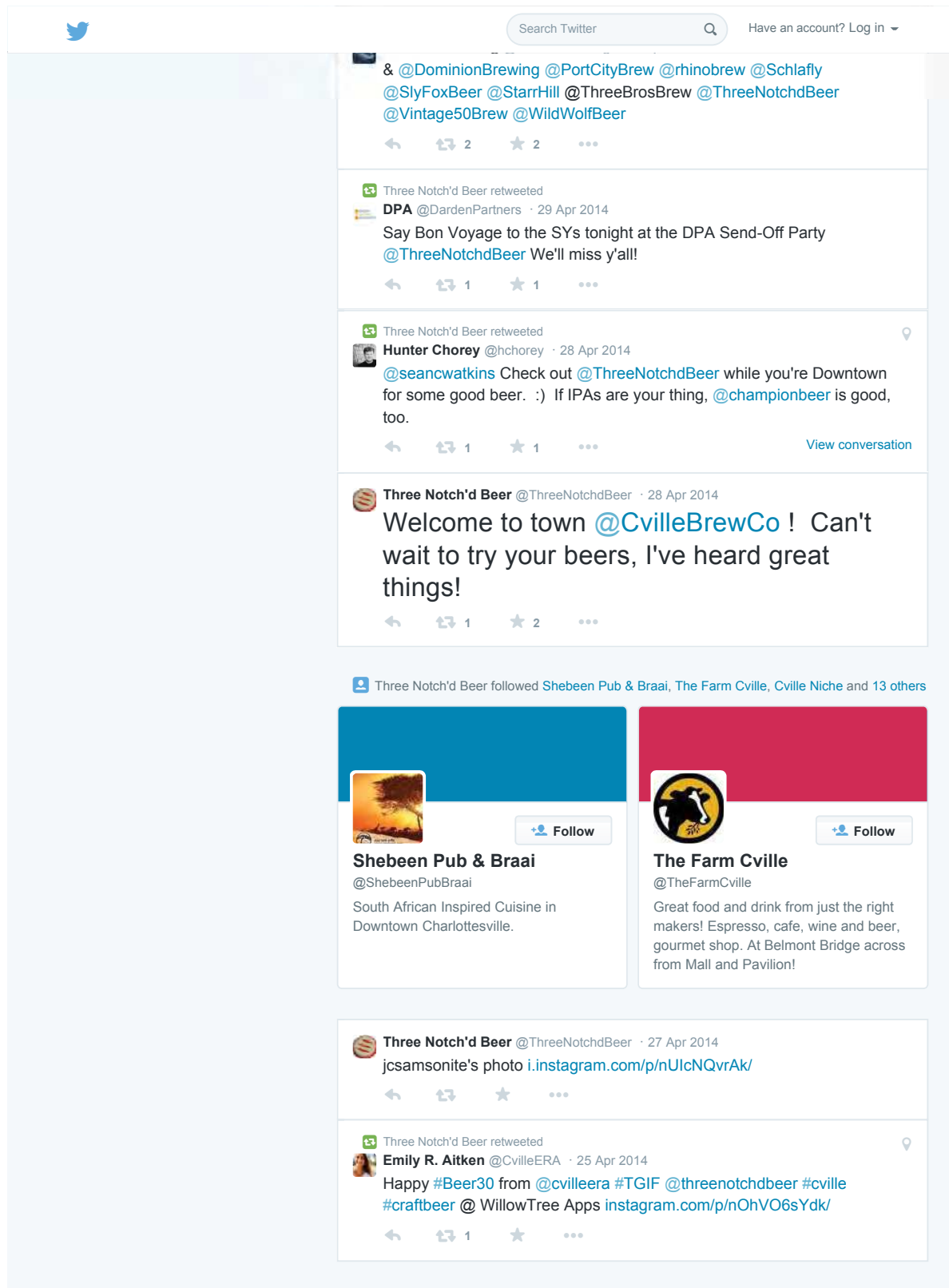


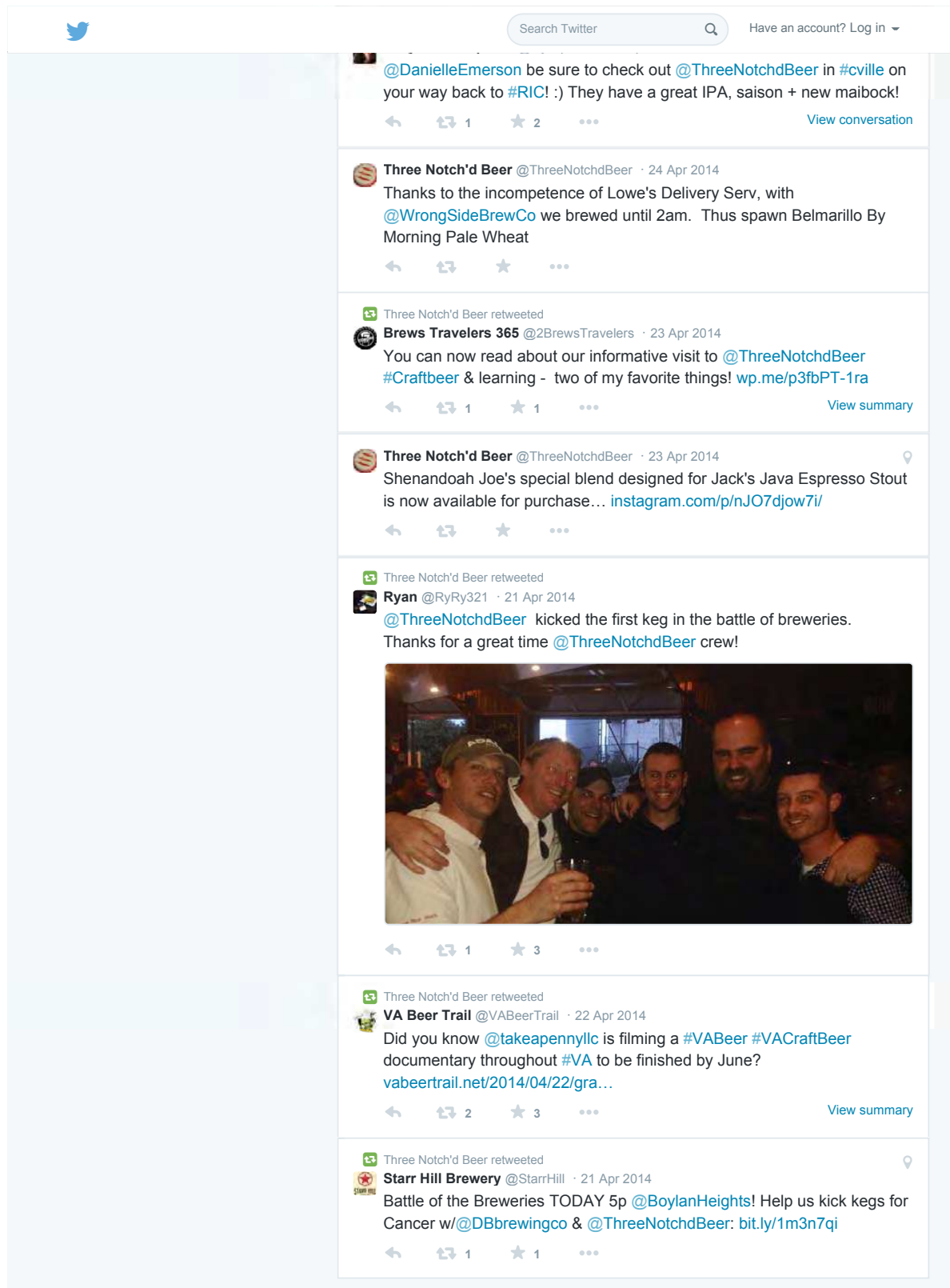


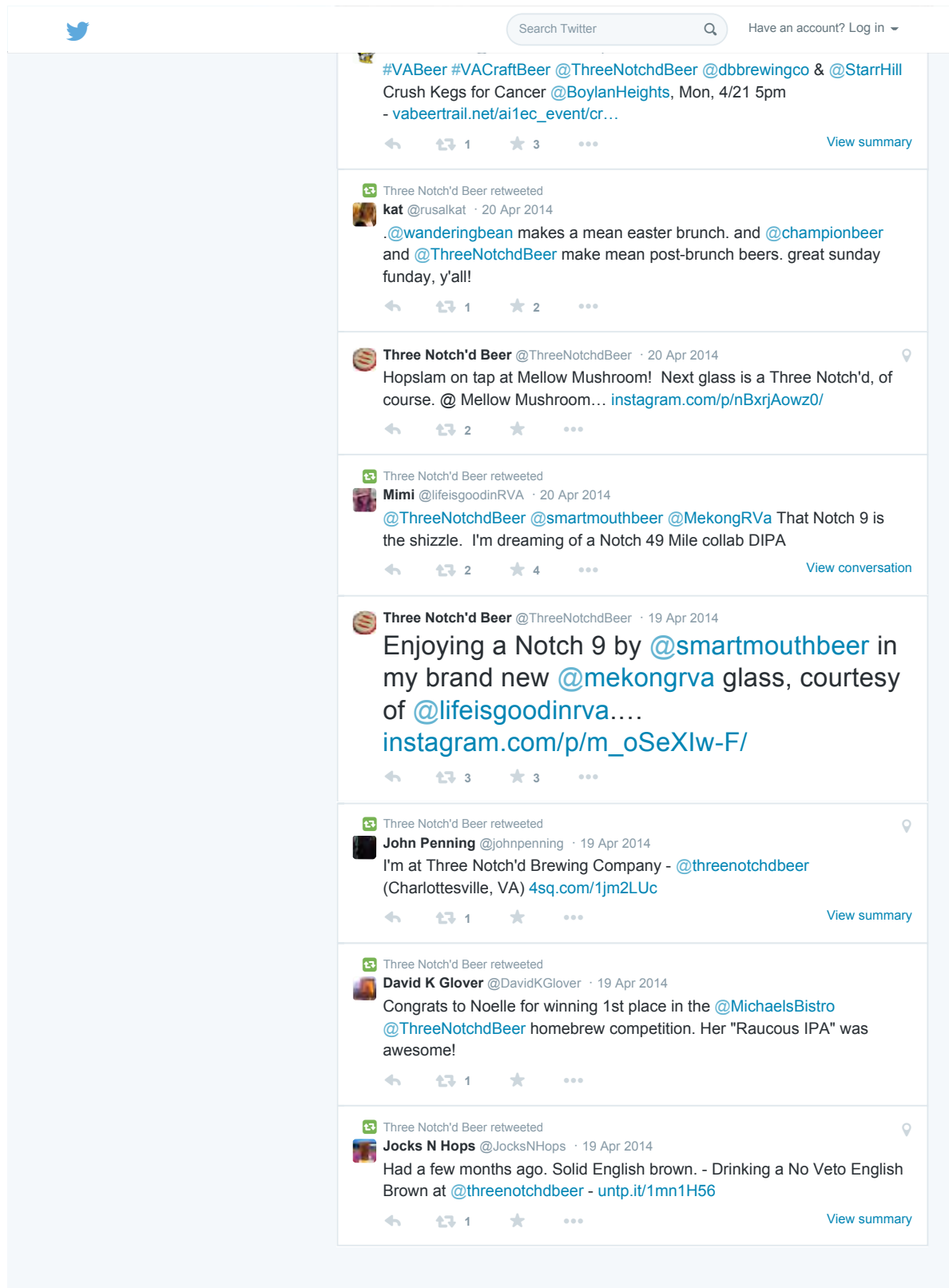


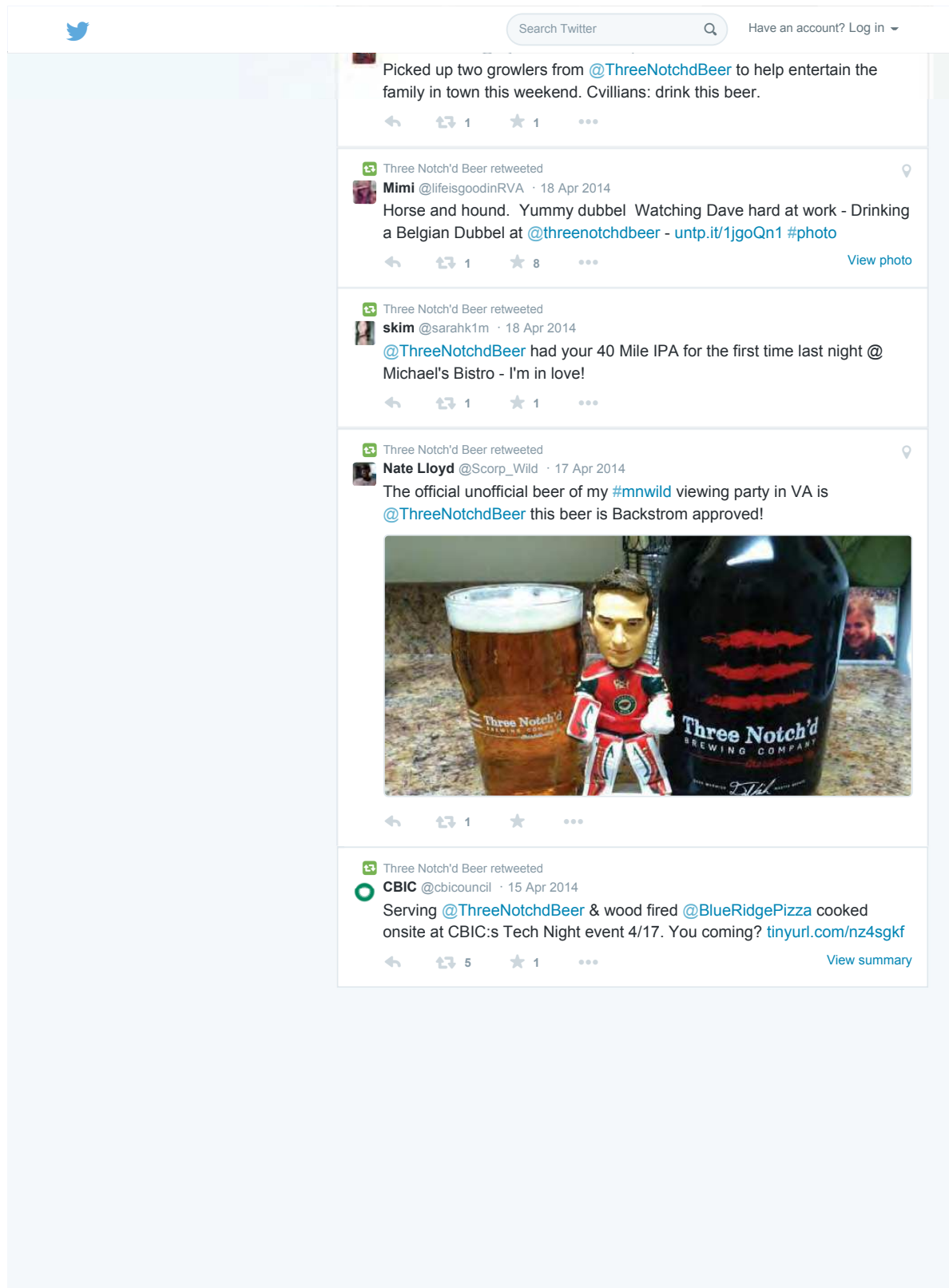


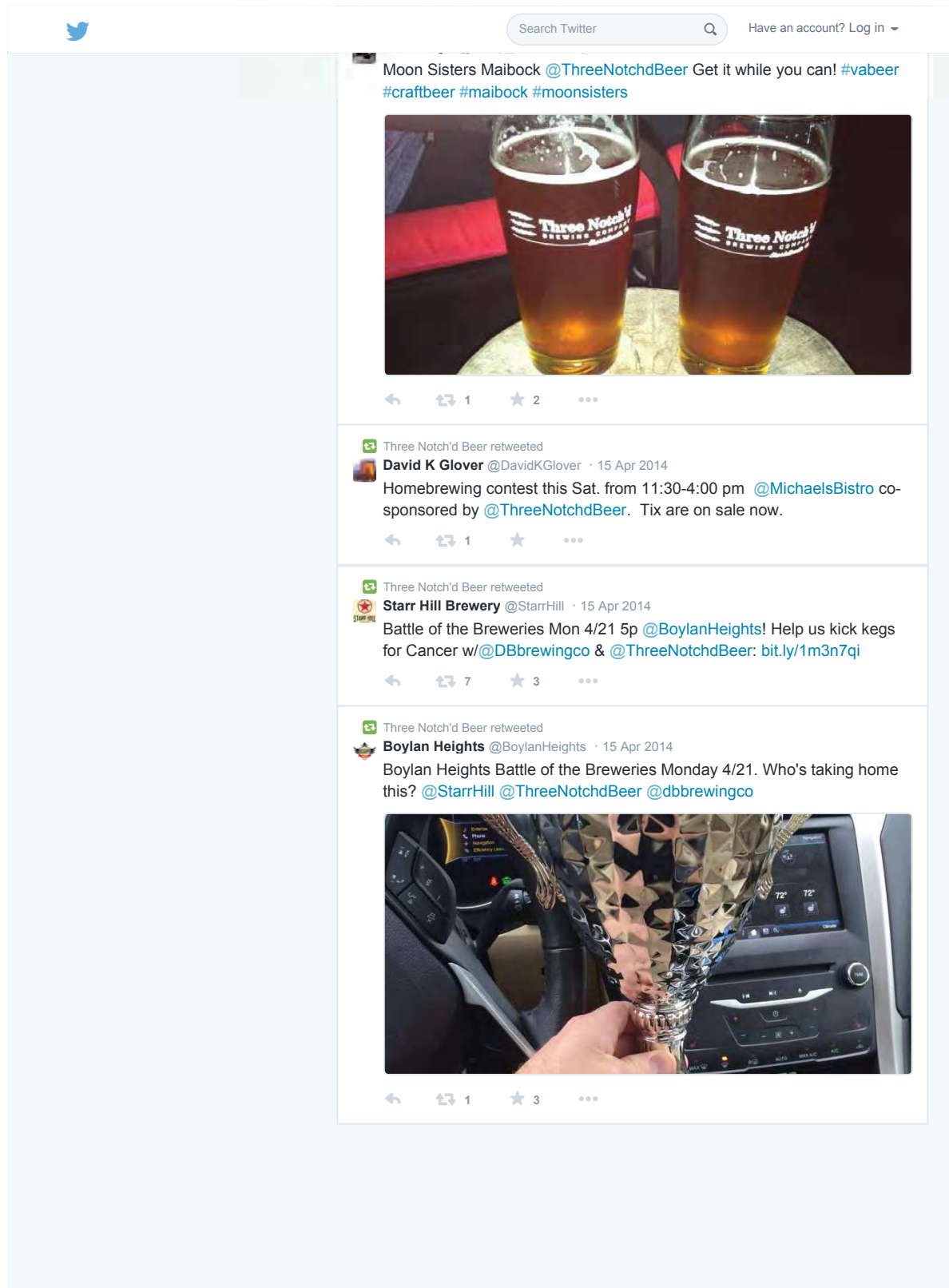


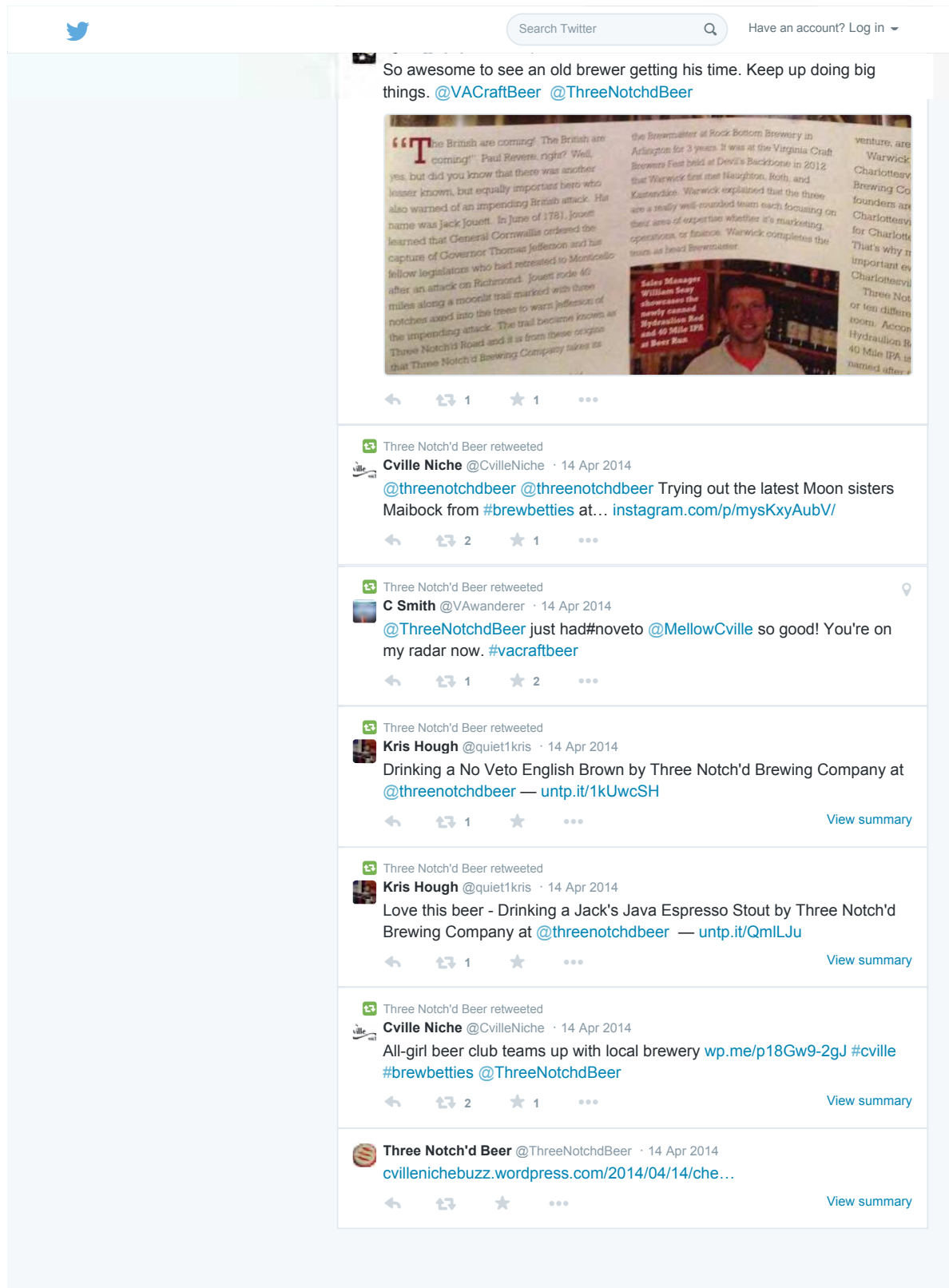


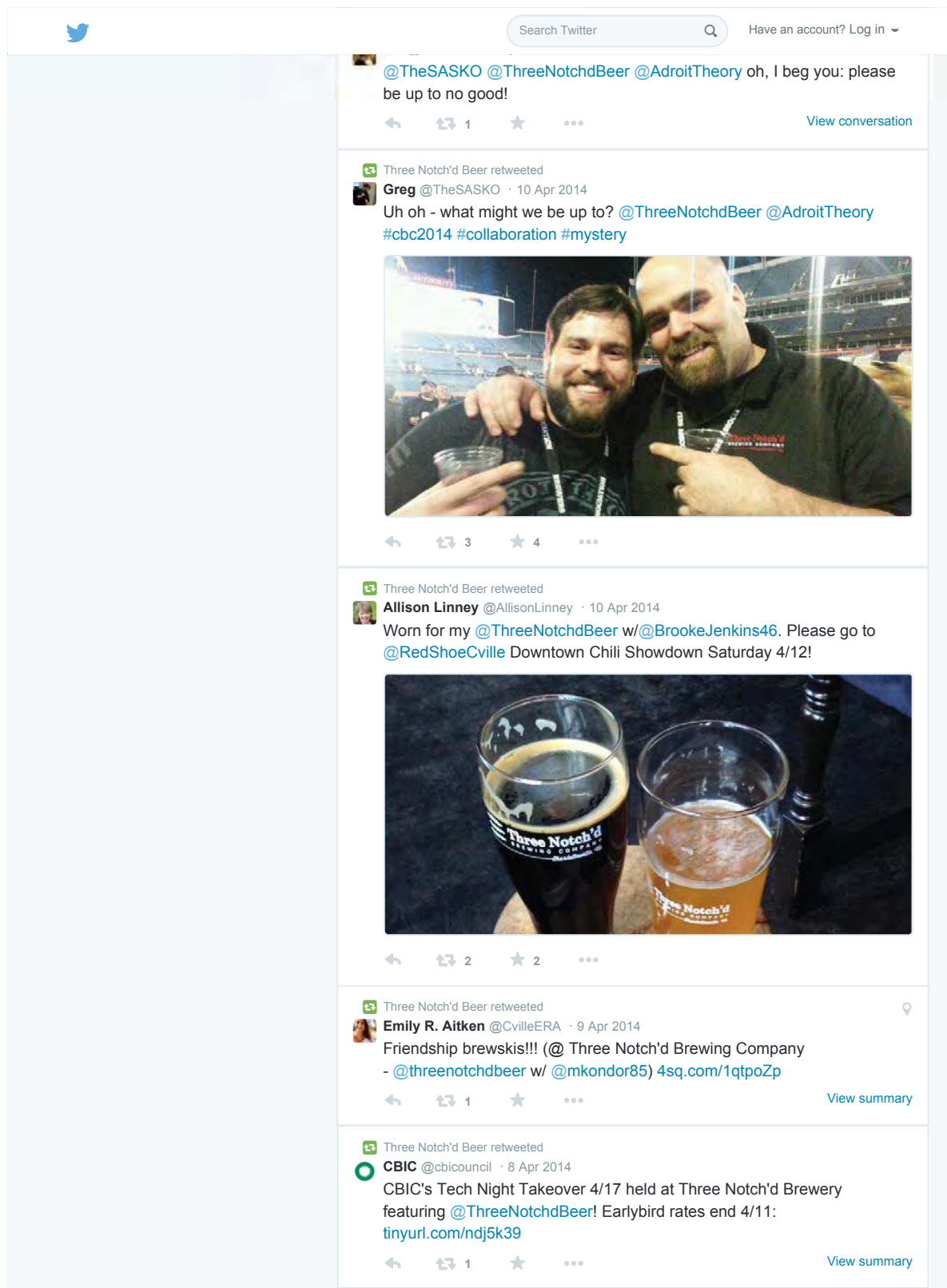


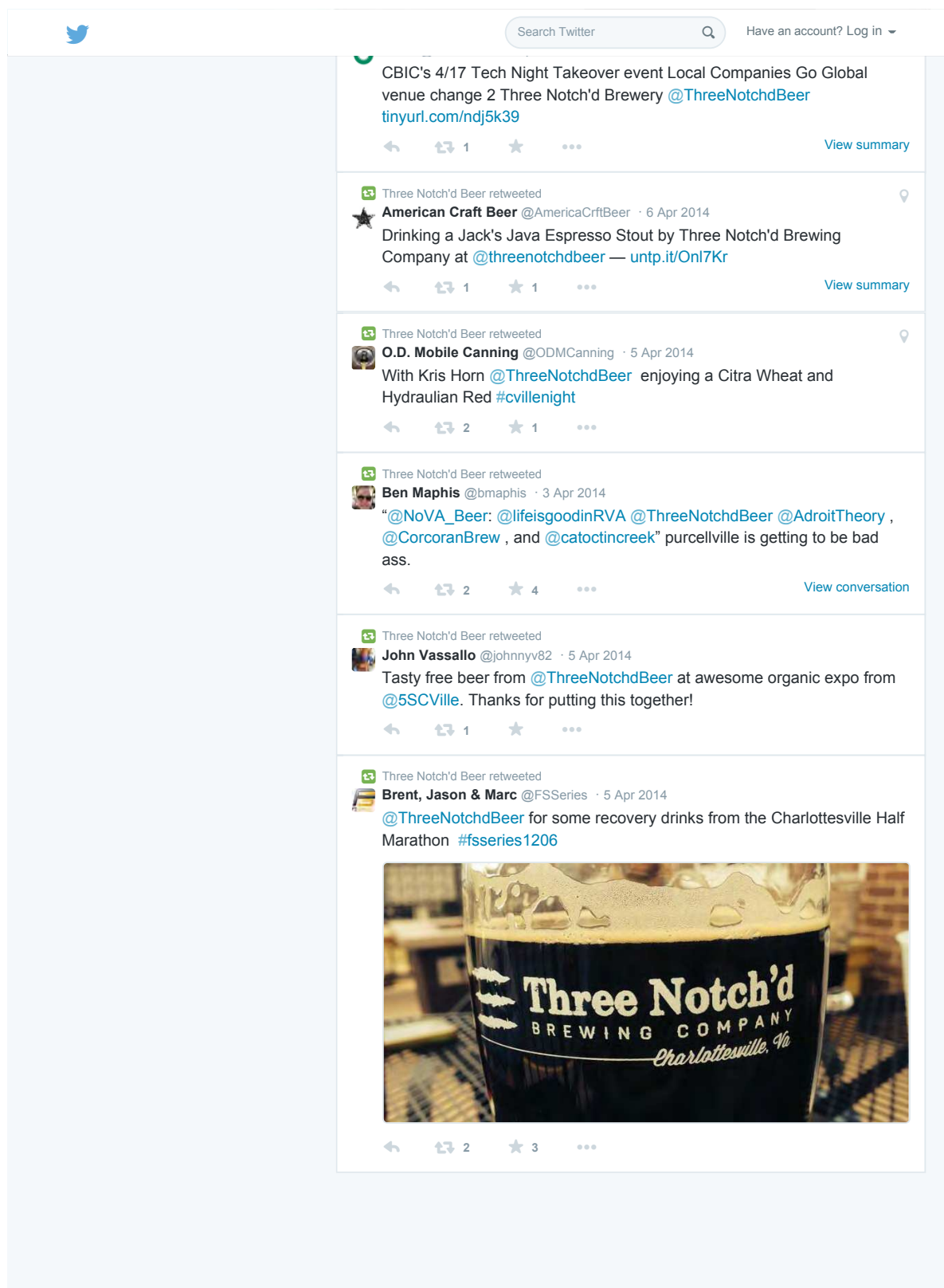


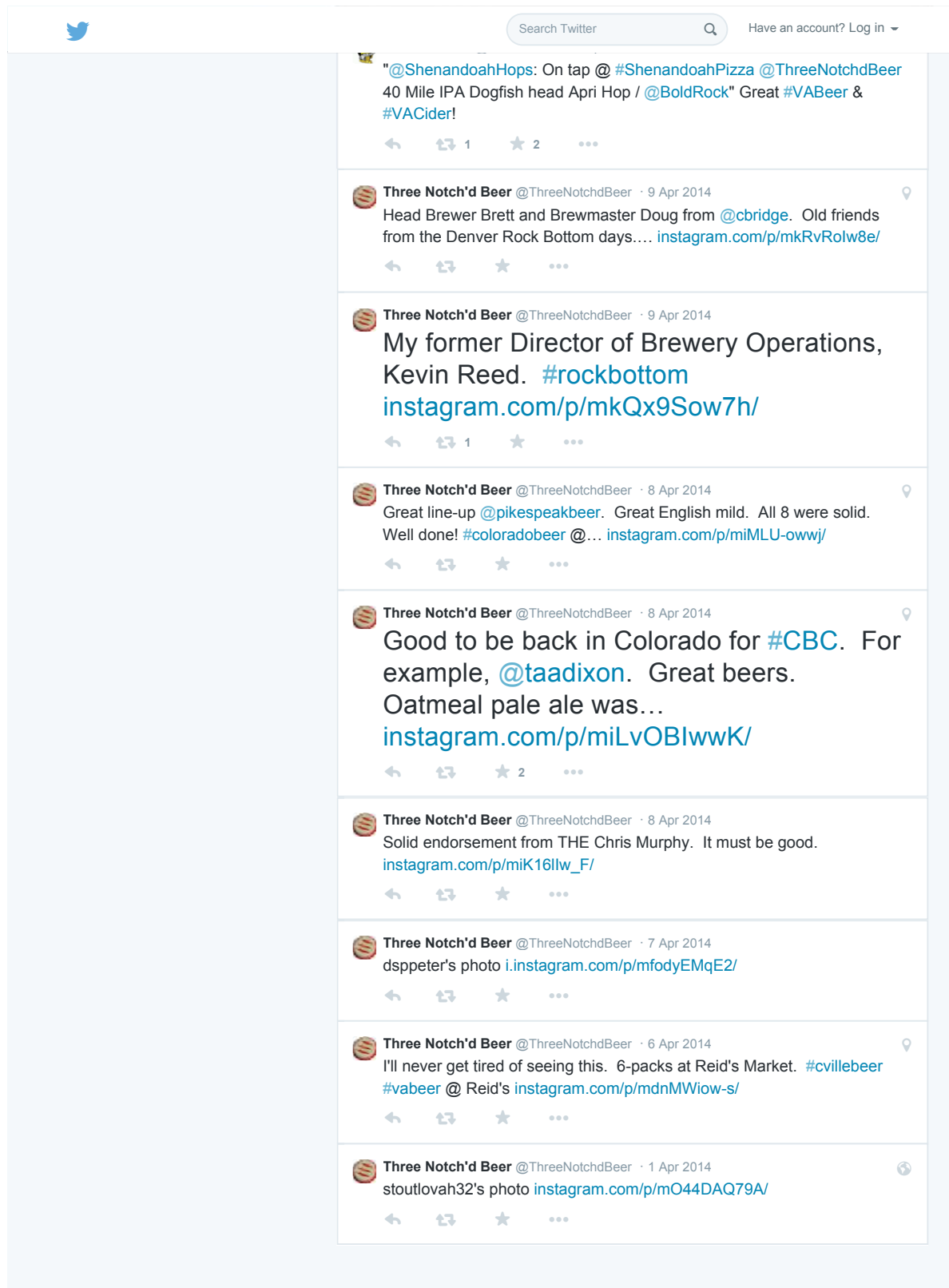


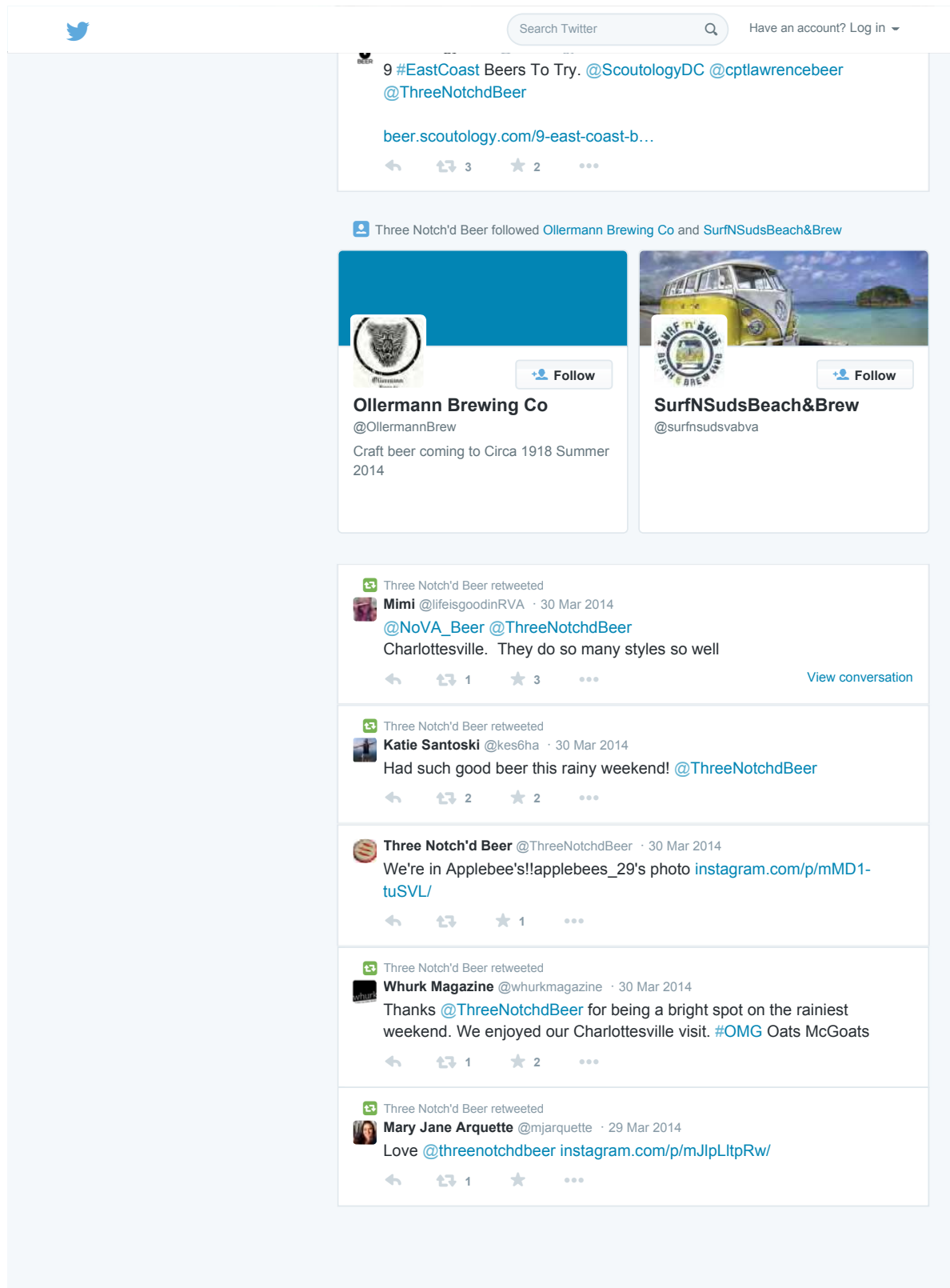


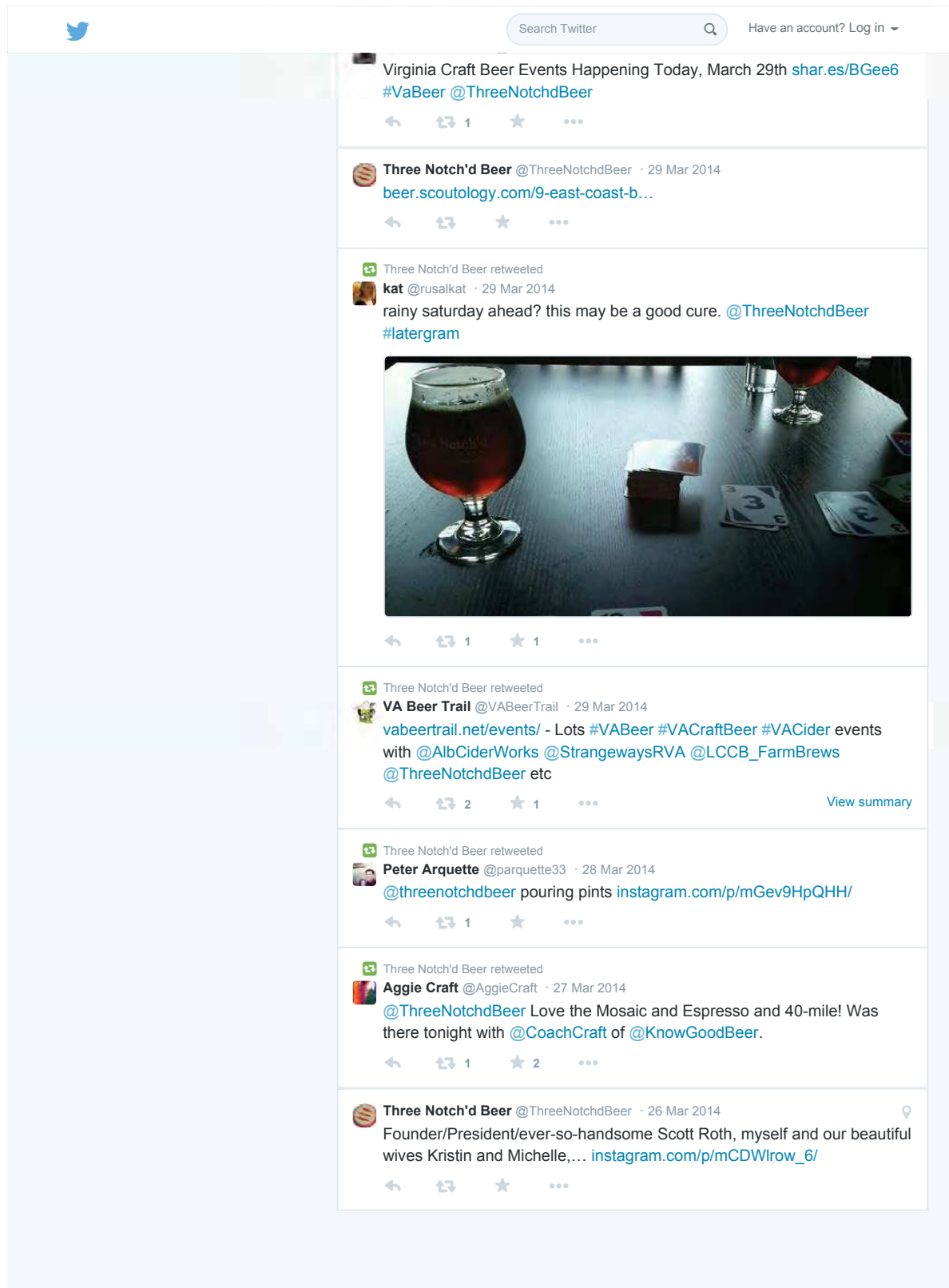


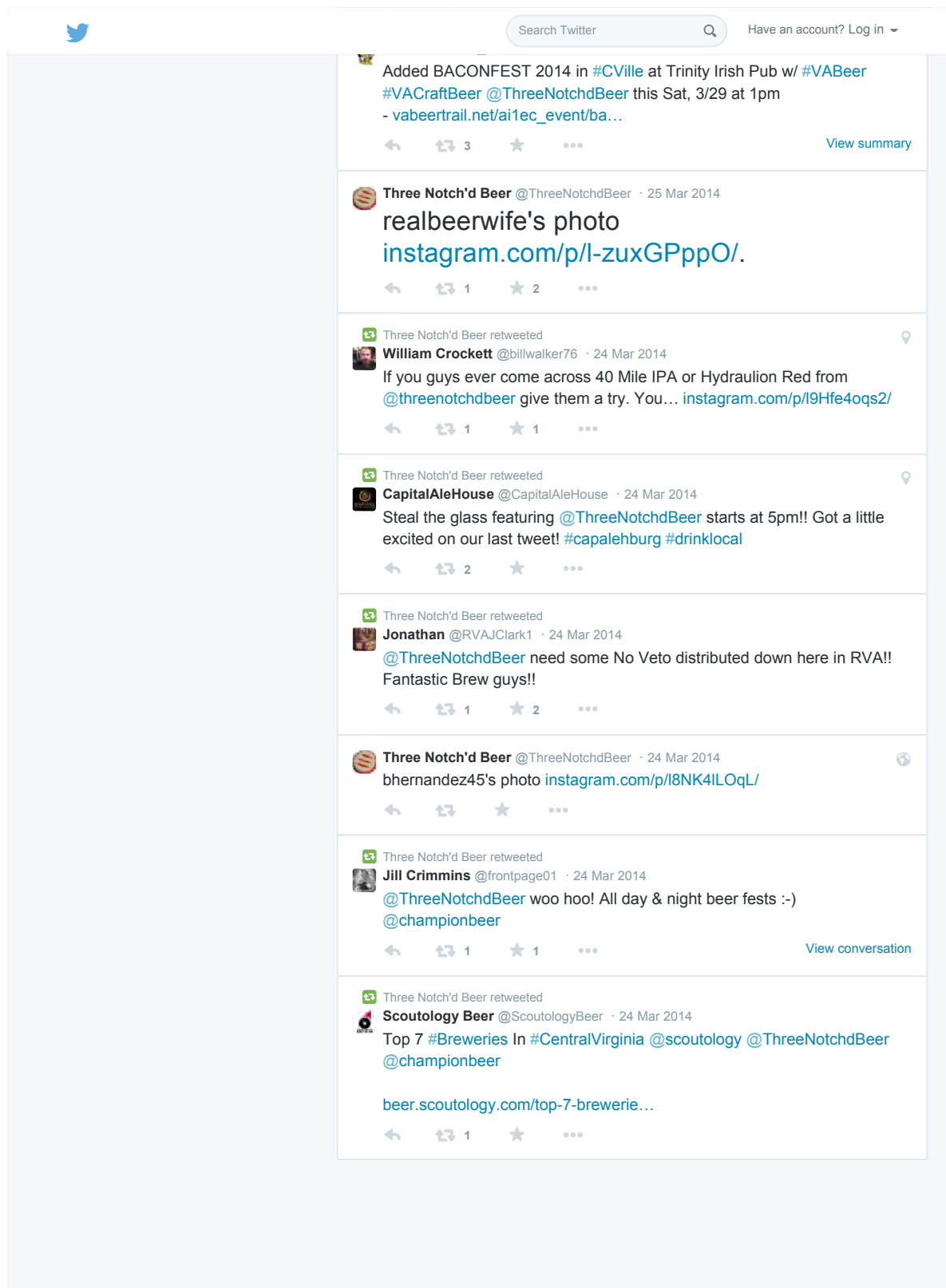


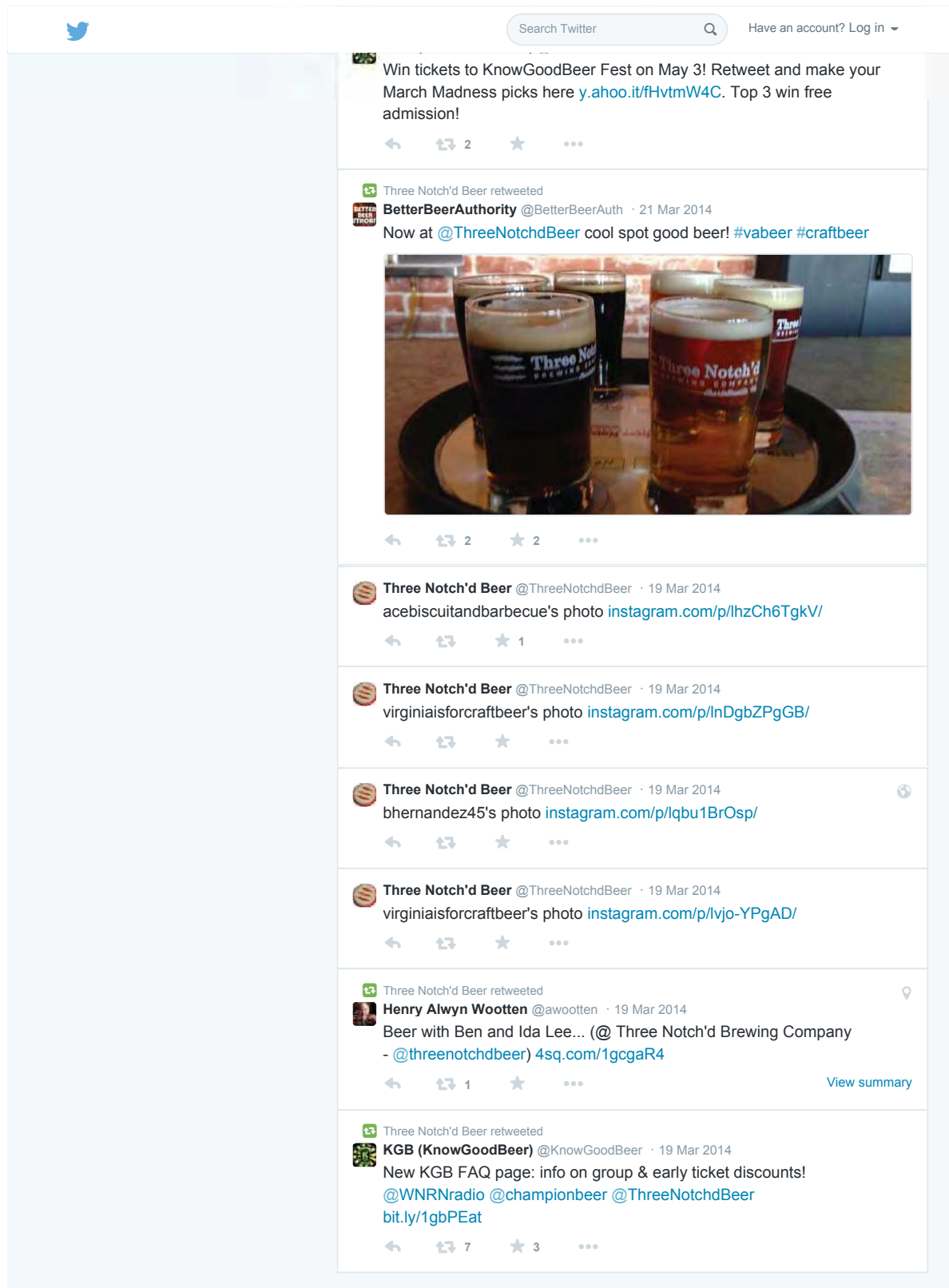


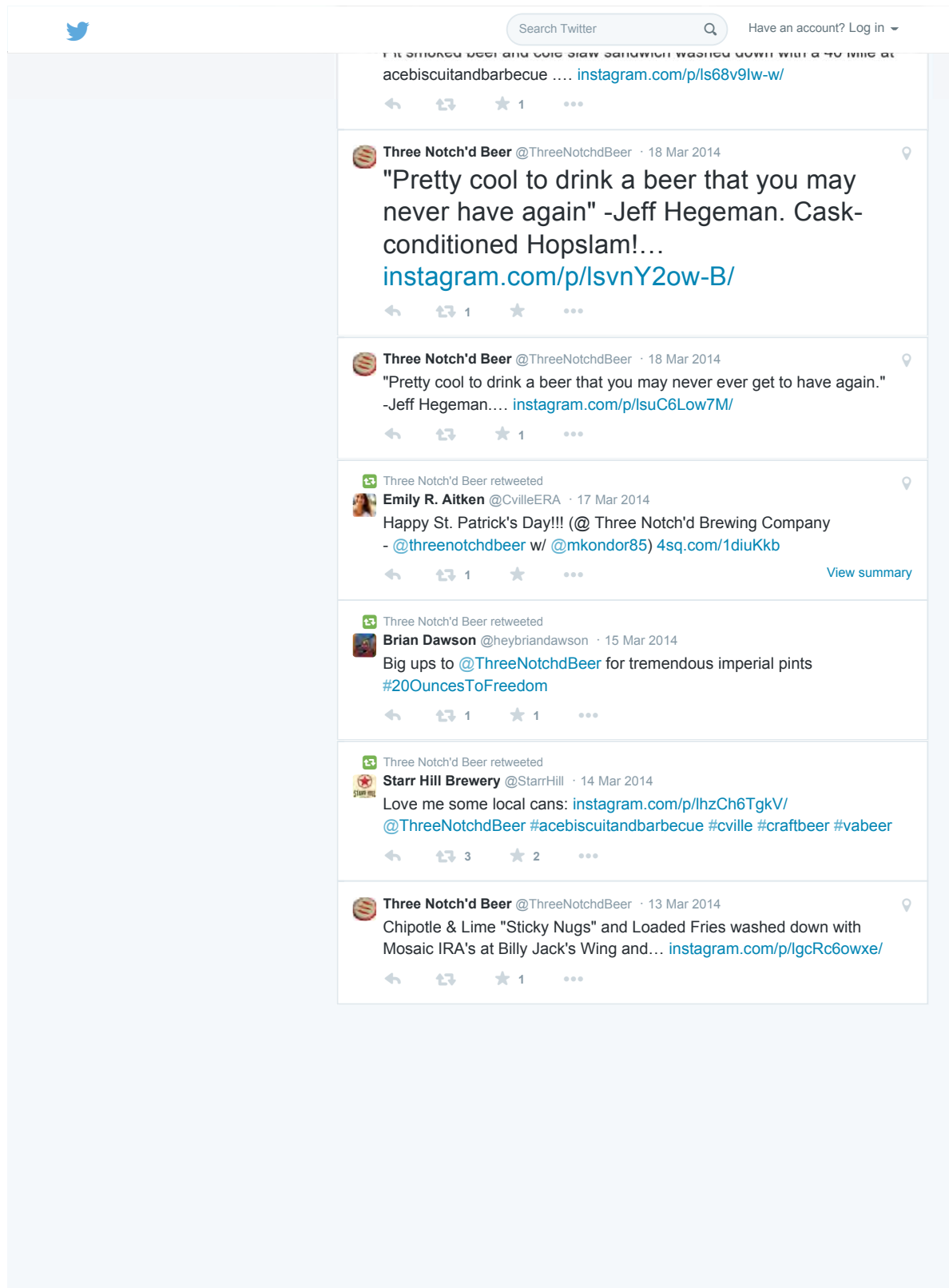


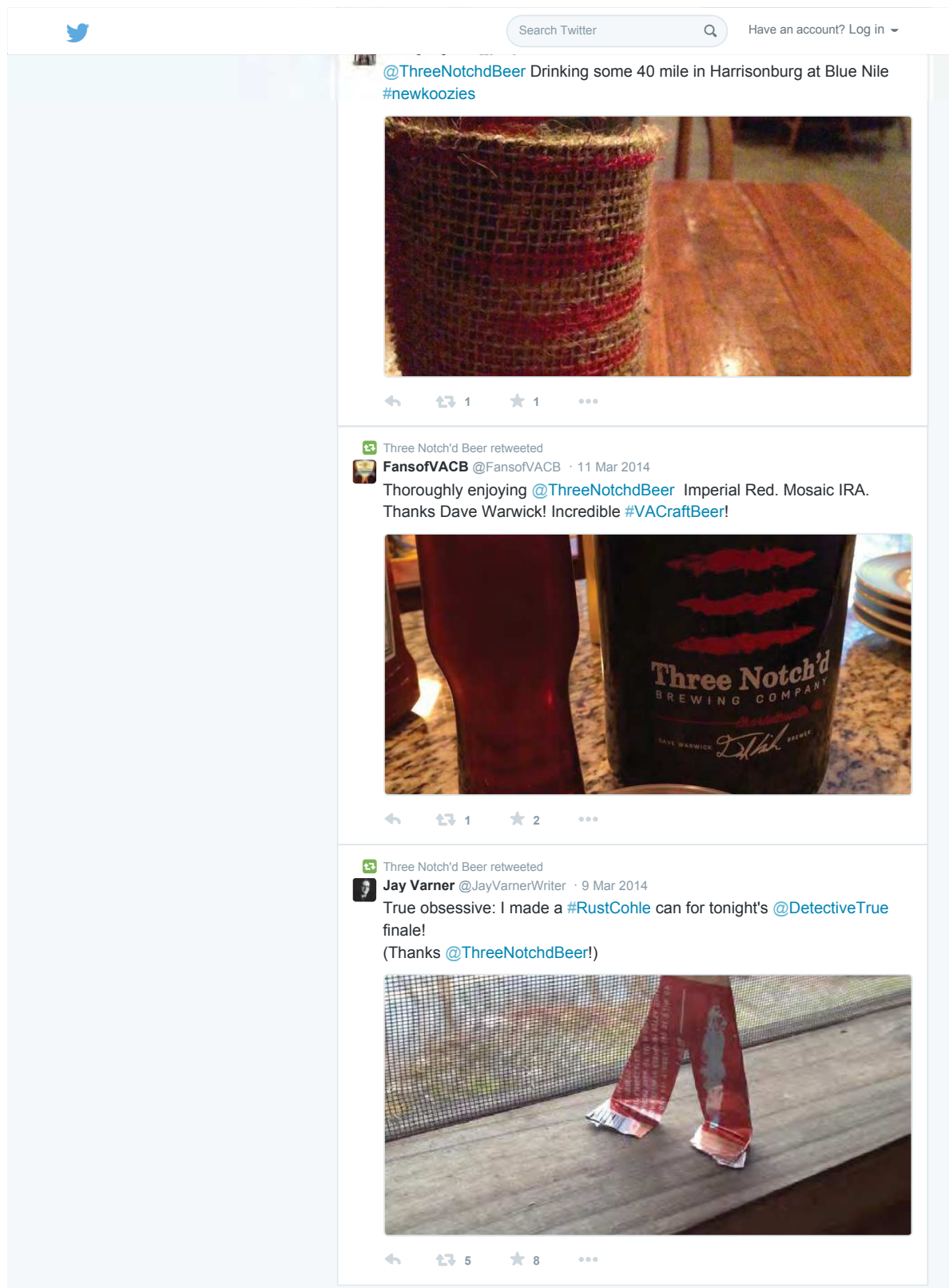


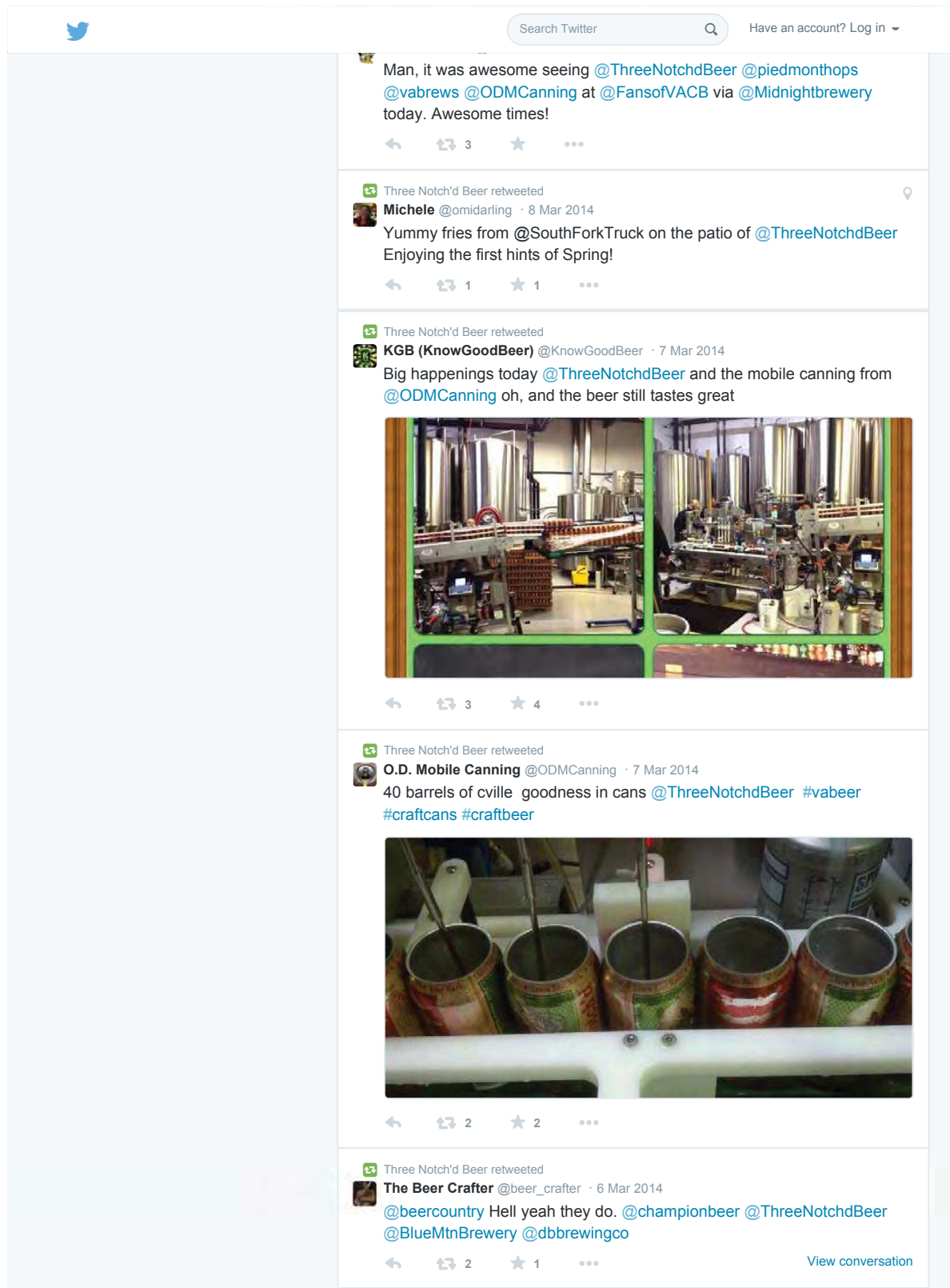


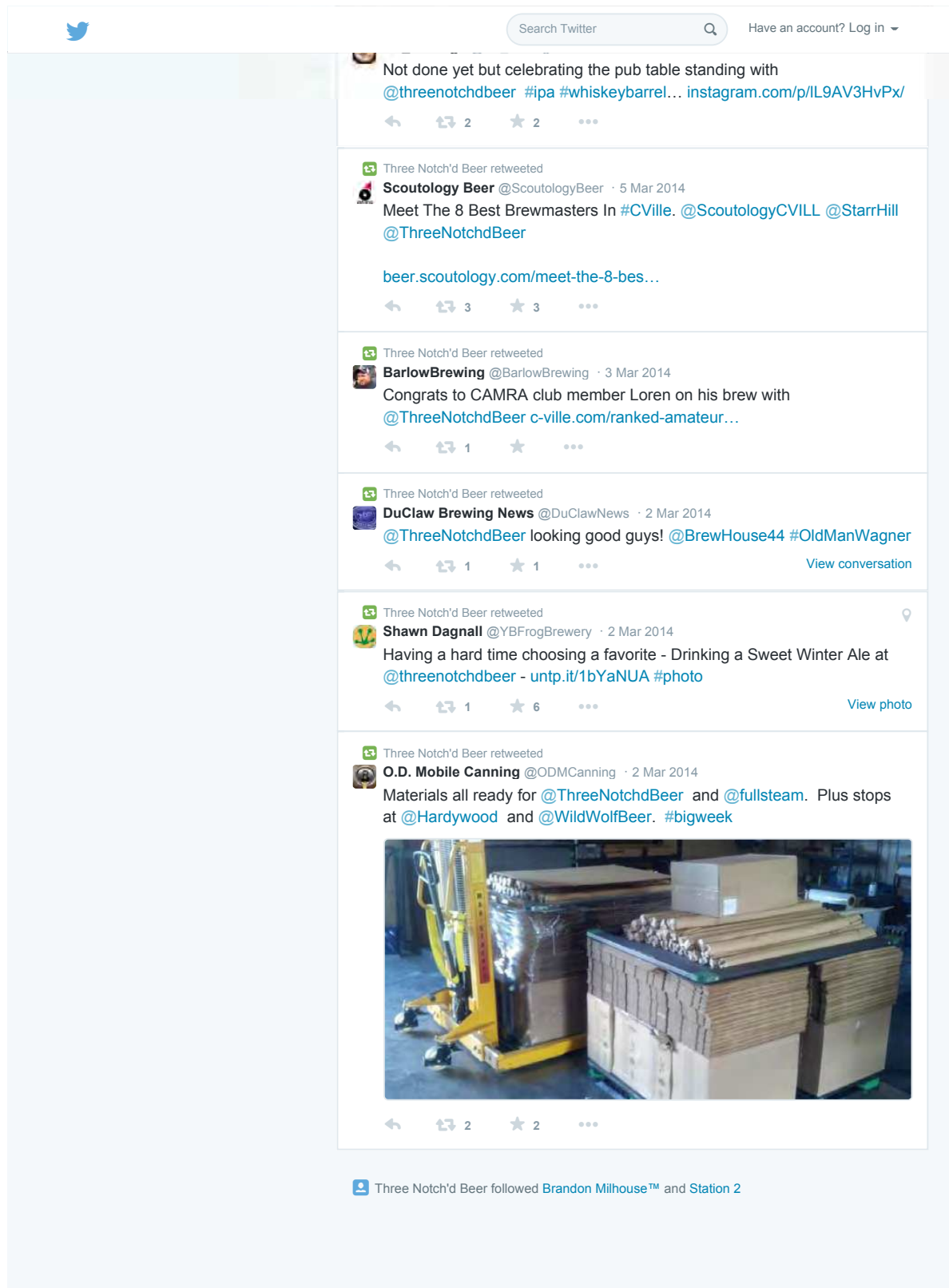


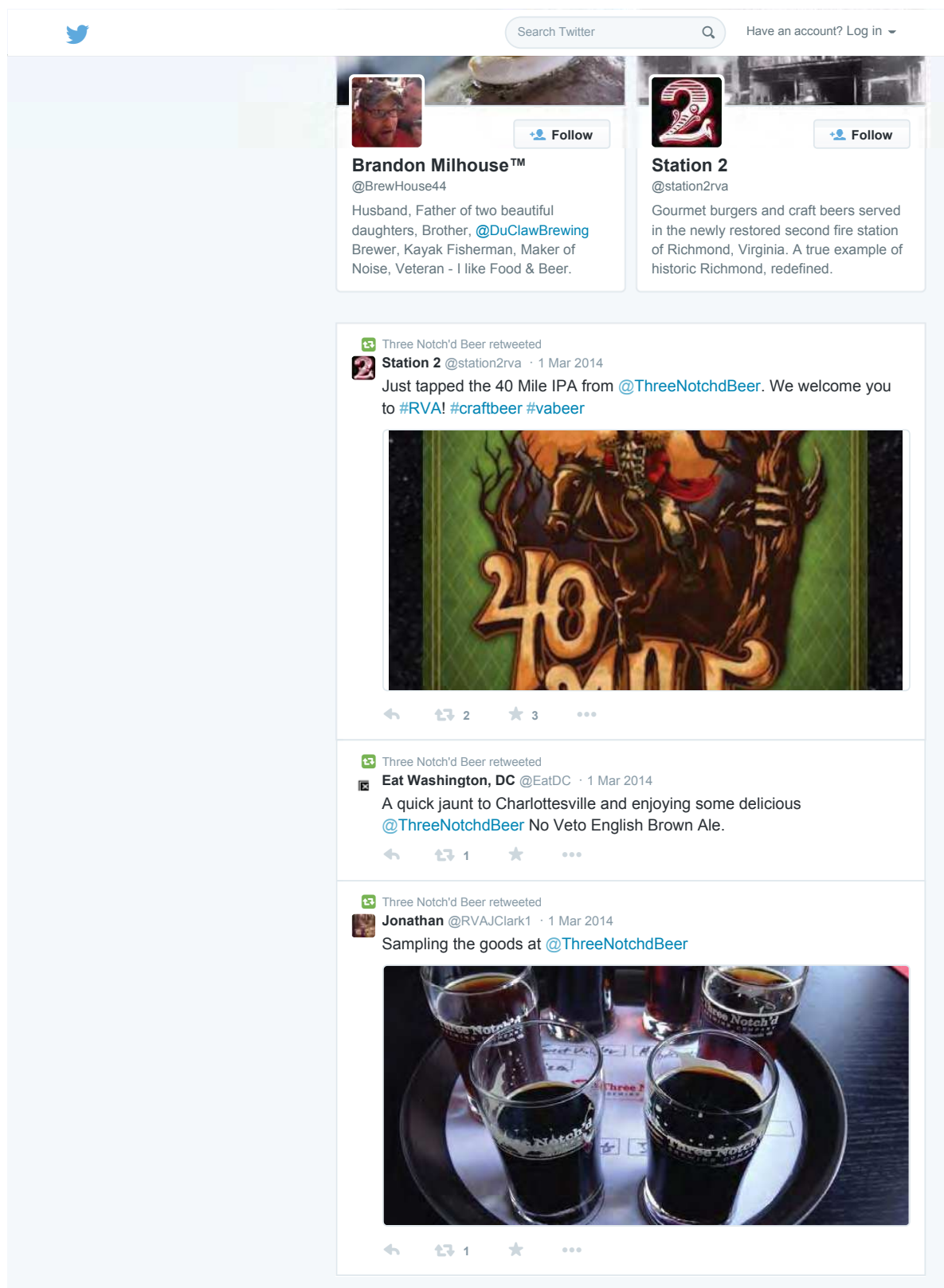


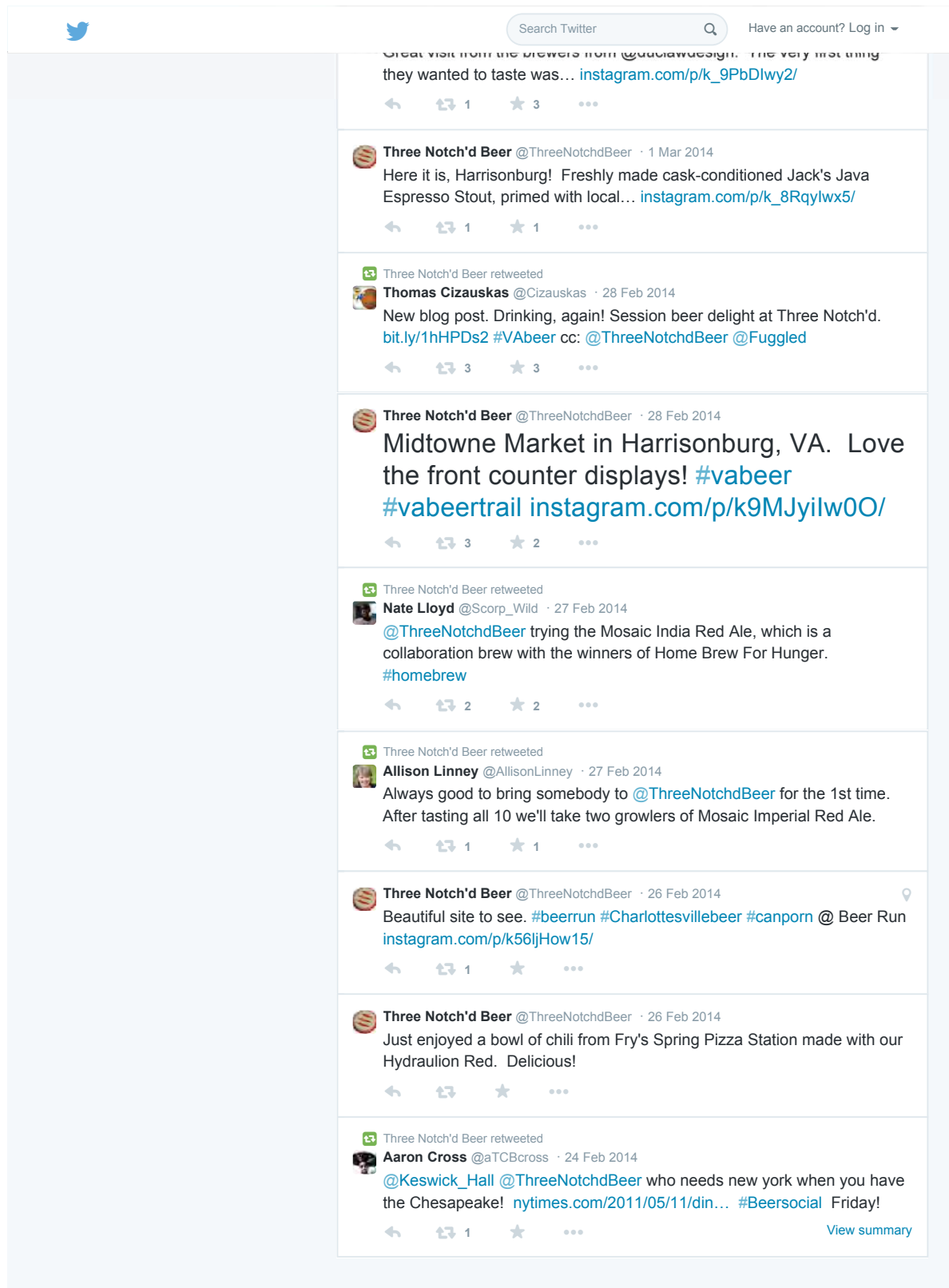


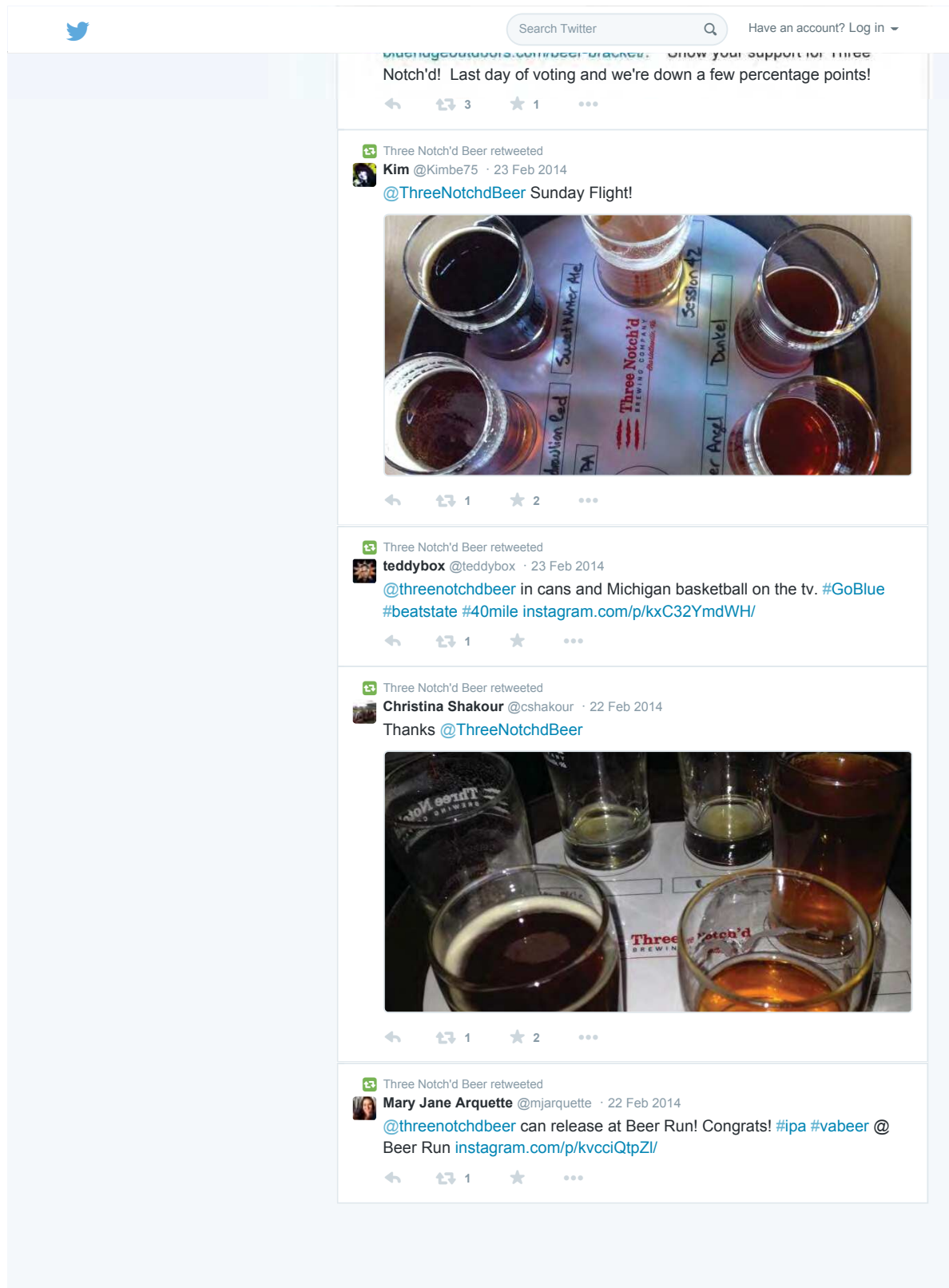


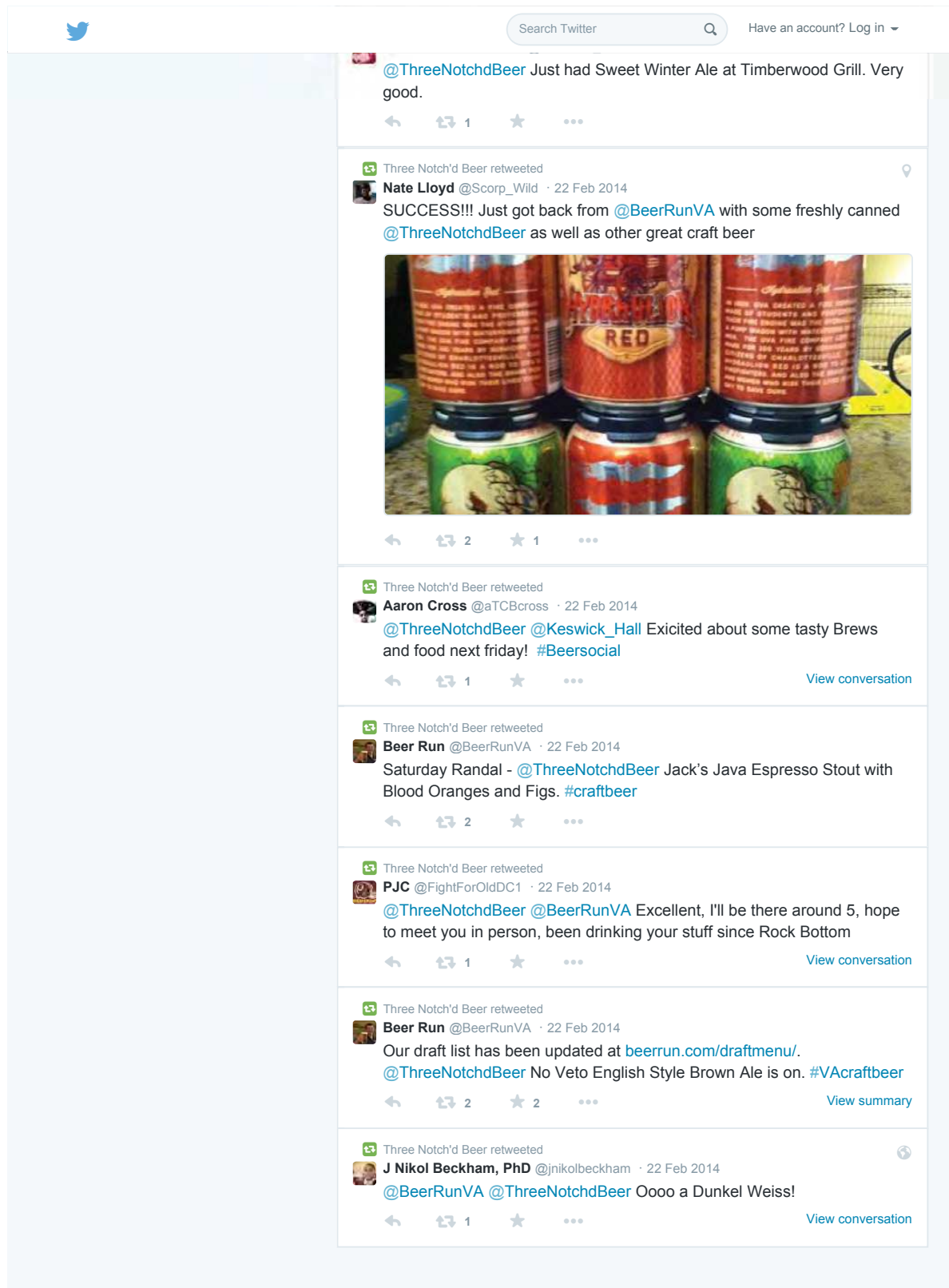


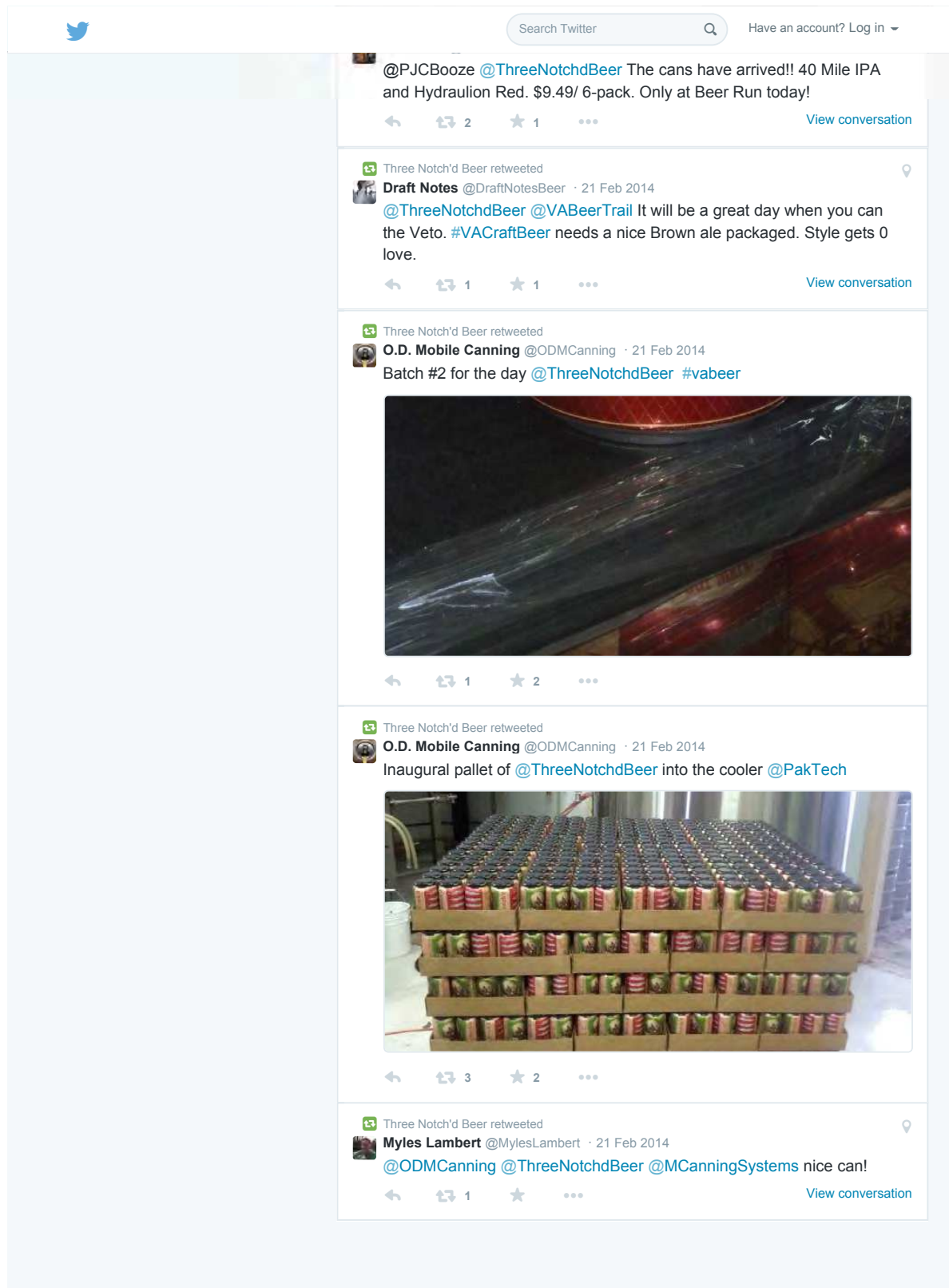


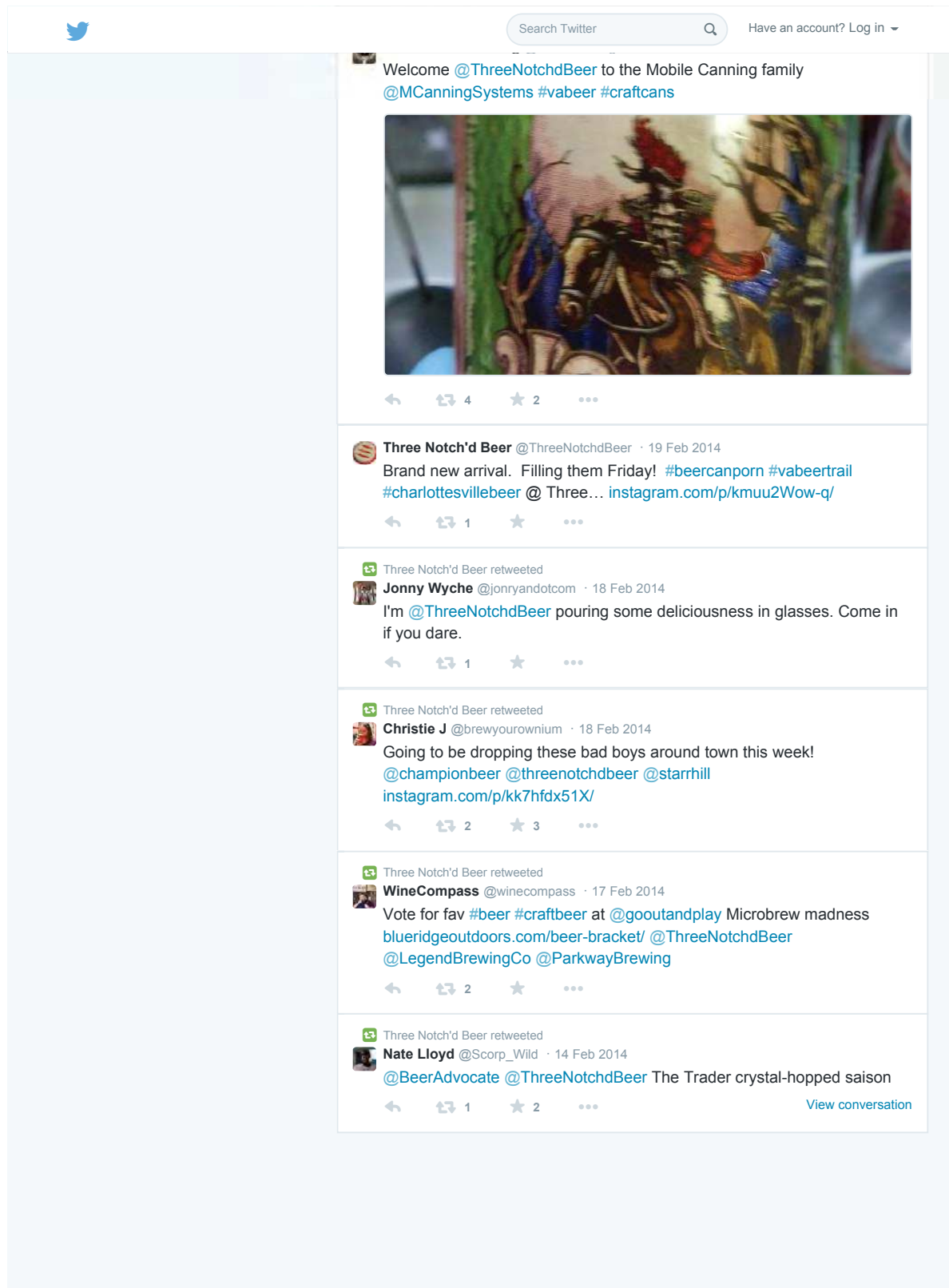


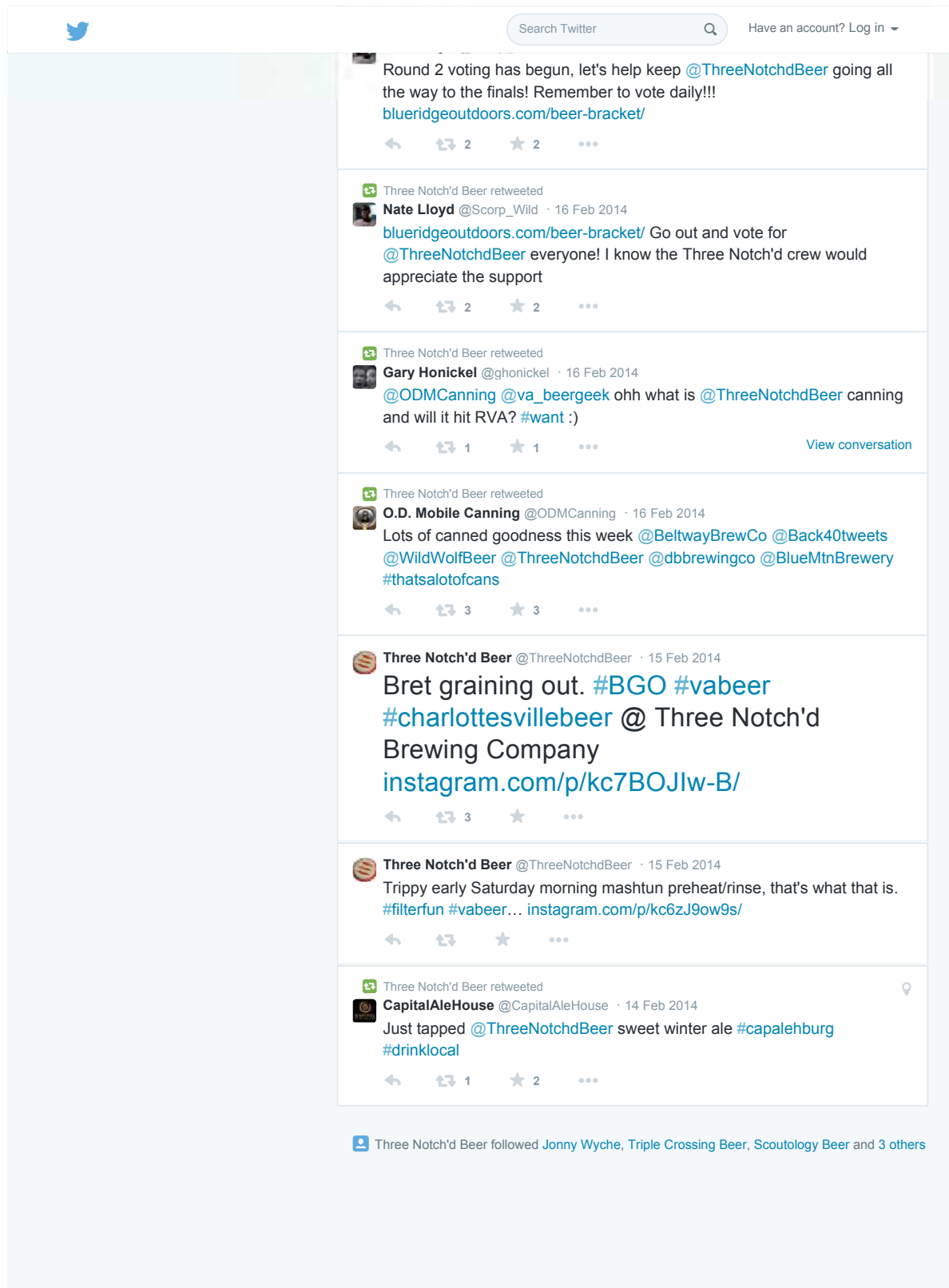


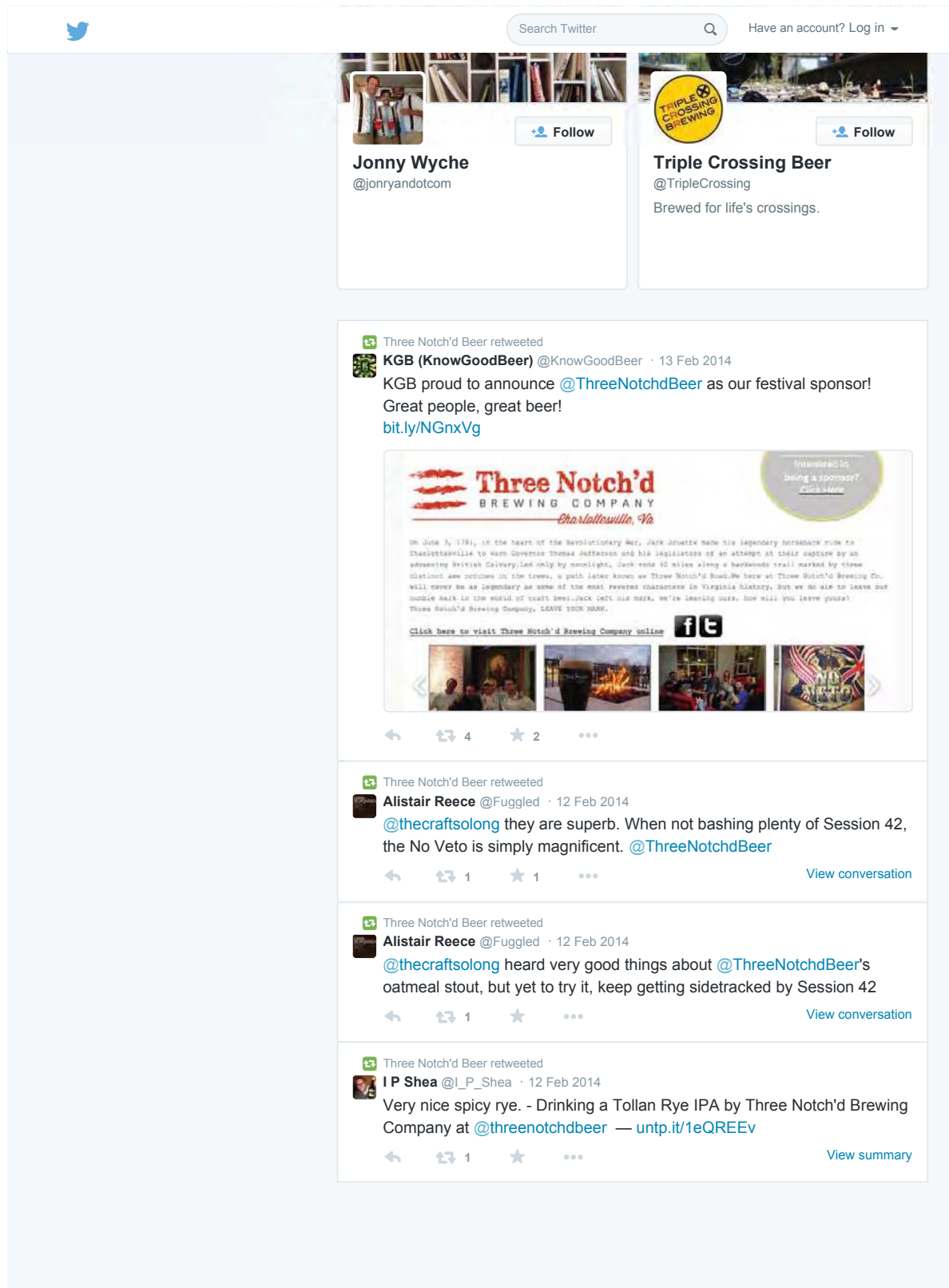


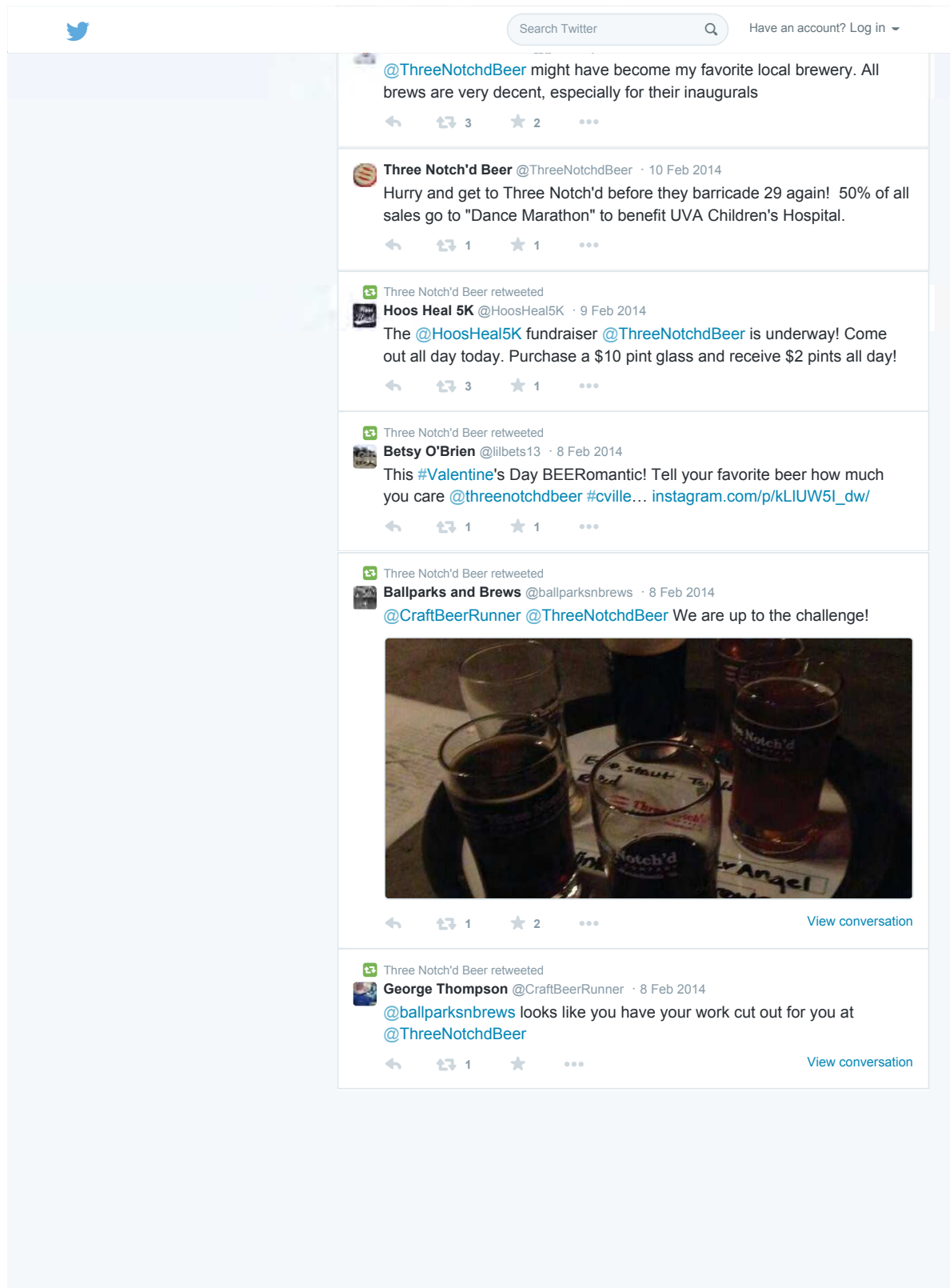


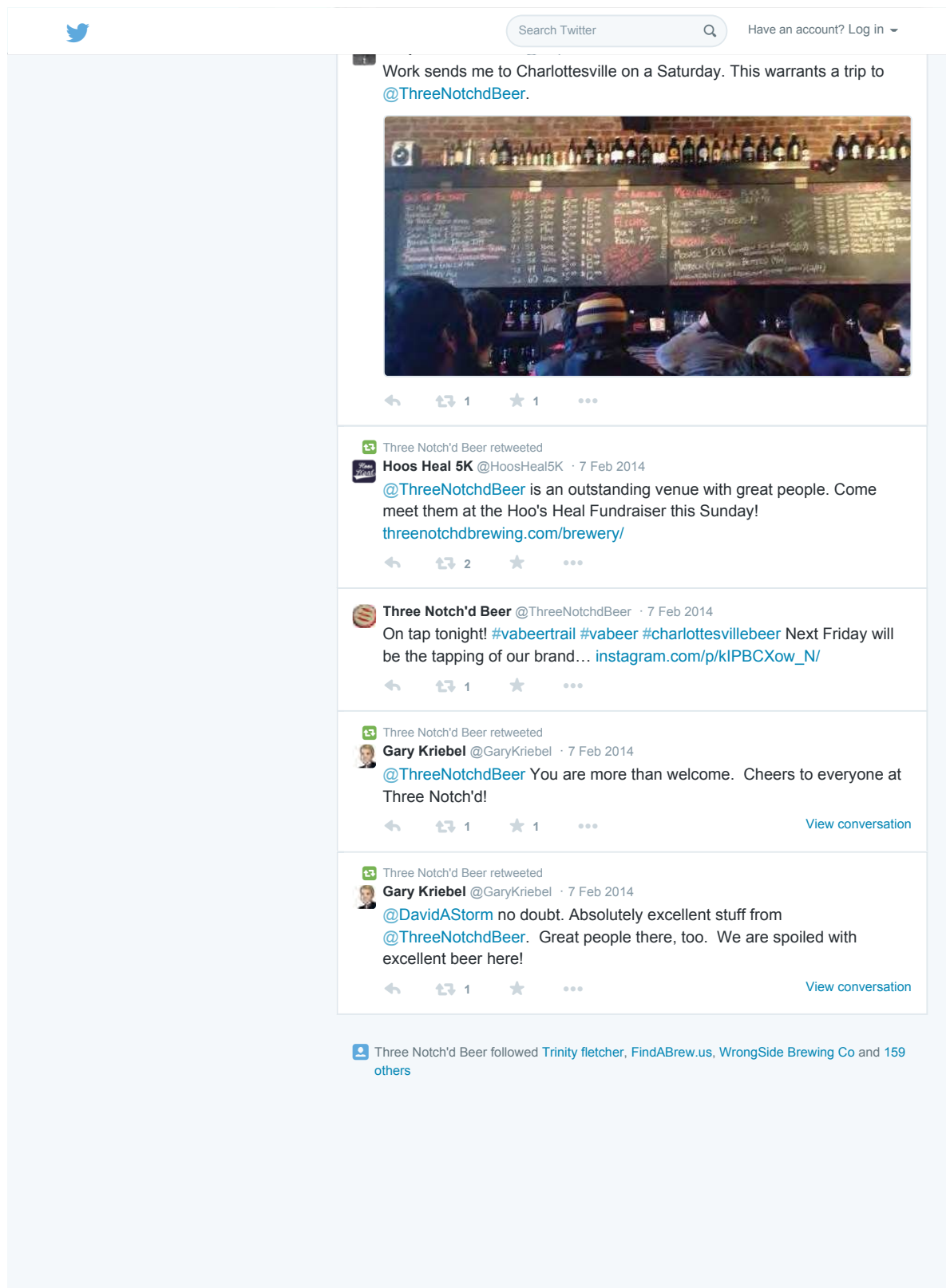












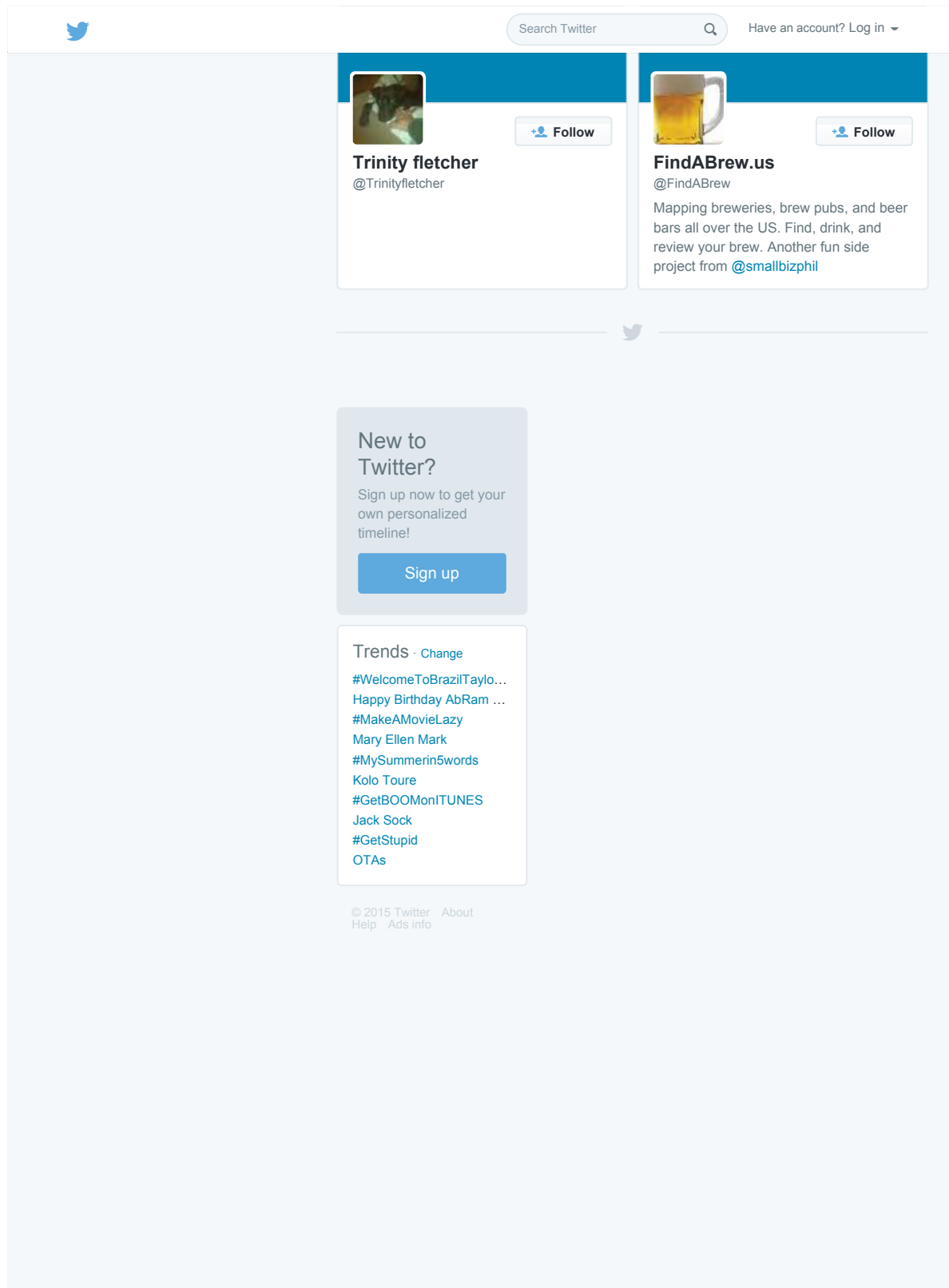





EXHIBIT 12

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Three Notch'd
 BREWING COMPANY
Charlottesville, Va

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HARRISONBURG



BIGGIE S'MORES
 IMPERIAL STOUT


How ya livin Biggie S'mores?
 IN CHOCOLATE AND BENZ'S
 GIVIN BOOZE TO MY FRIENDS AND
 IT FEELS STUPENDOUS
 IMPERIAL STOUT.
 A CHOCOLATE LOVER'S DREAM
 WHAAAT
 STILL TOTE COCOA
 AND MARSHMALLOWEY CREAM
 CHOPPIN HONEY MAIDS.
 ABOUT 80 BOXES OF THOSE
 MAKING GREAT BEER
 IS ALL WE KNOWS


Leave Your Mark.


ABV	IBU
8%	40


 22 FL OZ



BEER LIST
"40 Mile" IPA
 A tropical, peachy, pineapple flavor with big citrus, grapefruit, tangerine notes in the nose and in the finish
"The Ghost of the 43rd"
 American Pale Ale
 What sets this beer apart from other pale ales is the highly aggressive dry-hopping method using all four hops, which gives the beer an exploding bouquet of fresh hop aroma and flavor without all the bitterness.
"Hydraulion" Red
 A perfectly balanced beer with a great caramel sweetness alongside a tangy, citrusy hop profile




Three Notch'd Beer
 @ThreeNotchdBeer
 #stormjonas can't shut down the burg! #Hburg
 Hours: 3-10ish tonight, 12-10ish tomorrow.
 #beersweater #vabeer #blizzard2016
 #downtownhburg
 Expand


Three Notch'd Beer
 @ThreeNotchdBeer
 Bring it on #stormjonas we got beer & we know how to drink it! #Cville Hours: 12-8ish today, 12-10ish tomorrow. #snowday #sledding #vabeer
 Expand

MERCH


STAY IN TOUCH

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EXHIBIT 7

HIGHLY CONFIDENTIAL

FILED UNDER SEAL

EXHIBIT 14

TRADE SECRET/
COMMERCIALY SENSITIVE

FILED UNDER SEAL


EXHIBIT 15

TRADE SECRET/
COMMERCIALY SENSITIVE

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EXHIBIT 16

(434) 984-BEER (2337)
156 CARLTON ROAD, CHARLOTTESVILLE, VA 22902



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THREE NOTCH'D BREWING CAN RELEASE

23 FEB 2014

CRAFT BEER,
LOCAL, VIRGINIA
CRAFT BEER

POSTED IN: CRAFT
BEER NEWS

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Three Notch'd Brewing Co. has made a new mark!

We are happy to announce that Three Notch'd Brewing has released cans of their flagship beer, 40 Mile IPA and their Irish-style red ale, Hydraulion Red. They are on sale at Beer Run. \$9.49 a six pack.

40 Mile India Pale Ale: Named after the number of miles Jack Jouett raced to warn Thomas Jefferson and his state legislators that Cornwallis had ordered their capture. Jack Jouett's ride is legendary in Virginia and put Three Notch'd Road on the map as a central story in the fight for our Country's independence. This West Coast Style IPA is hopped with an abundance of American hop varieties giving it a tropical, peachy, pineapple flavor with big citrus, grapefruit, tangerine notes in the nose and in the finish. The light, crisp malty body allows the complex hop flavors to stand out, and the subtle bitterness makes this IPA a refreshing, easy drinking, delicious beer.

Hydraulion Red: In 1828, the University of Virginia created their own fire company made up of students, professors and servants. Their sole fire engine was called the Hydraulion, a pump wagon with the waterpower of 16 men. The UVA Fire Company left their mark for almost 100 years before giving way to the town of Charlottesville's Fire Department. Our Hydraulion Red is a nod to not only UVA's firefighters, but the brave men and women everywhere who risk their lives every day, while saving ours. This Irish-Style Red is a perfectly balanced beer with a great caramel sweetness alongside a tangy, citrusy hop profile.

Congratulations Team Three Notch'd!

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EXHIBIT 17

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EXHIBIT 18

5/26/2015

BevMol - Beer

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Item # or keywords

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Now:

[Craft Beer](#)

Type/Varietal:

[Big Breweries](#)

[Ciders](#)

[Craft Brew](#)

[Imported Beers](#)

[Malt Beverages](#)

Country:

[USA](#)

[Mexico](#)

[Belgium](#)

[Germany](#)

[England](#)

[Czech Republic](#)

[Ireland](#)

Critic's Rating:

[Up to 86](#)

[86 to 89](#)

[90 and over](#)

Price:

[Up to \\$5](#)

[\\$5 to \\$10](#)

[\\$10 to \\$15](#)

[\\$15 to \\$20](#)

[Over \\$20](#)

Members' Rating:

[3+ Stars](#)

[4+ Stars](#)

[5 Stars](#)

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Product First Letter:

[Z](#) [A](#) [B](#) [C](#) [D](#)

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5/26/2015

BevMol - Beer

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5/26/2015

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Search

Item # or keywords

[Go](#)

View inventory available for

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**SHOP ONLINE &
PICK UP IN 1 HOUR**



EARN A 5% REWARD
[VIEW DETAILS](#)

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Country:

[USA](#)

[Mexico](#)

Members' Rating:

[3+ Stars](#)

[4+ Stars](#)

[5 Stars](#)

Product First Letter:

[A](#)

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Diet Coke Caffeine Free

The original taste of Coke! Versatile as a mixer r refreshing over ice!

> 2 LTR

\$2.29
CLUBBEV!
\$2.09



[Buy](#)

Diet Coke Caffeine Free

Great taste and no caffeine!

> 12PK 12 OZ

\$7.79



[Buy](#)

Sprite

A great mixer! Sprite

> 2 LTR

\$2.29
CLUBBEV!
\$2.09



[Out of Stock](#)

Sprite Zero

A great mixer!

> 2 LTR

\$2.29
CLUBBEV!
\$2.09



[Out of Stock](#)

Coke Classic

All the great flavor of Coke packed in these 8 oz collectible bottles; the perfect package for any Coke fanatic!

> 6PK 8 OZ

\$8.99



[Out of Stock](#)

Fanta Mexican Orange

The original orange from Mexico!

> 12 OZ

\$1.69
CLUBBEV!
\$1.49

8.5 Oz Aluminum Coke Zero

Coke Zero in an aluminum package shapped like an old style glass bottle. Great for collectors!

Members' Ratings

★★★★★ (1)

http://www.bevmo.com/Shop/ProductList.aspx/SodaShop/More/_/N-16Z1z12ewiZ1z12ewk?DNID=SodaShop

1/2

MEC00060654

Exhibit 18 Page 3 of 4

Decl. of Jason A. Champion in Support of
Opposer's Motion for Summary Judgment

5/26/2015

www.bevmo.com/Shop/ProductList.aspx/SodaShop/More/_/N-16Z1z12ewiZ1z12ewk?DNID=SodaShop



» 8.5 OZ

\$1.99

[Out of Stock](#)



Sprite

The delicious alternative to cola! Sprite

» 12PK 12 OZ

\$7.79

[Out of Stock](#)



Cherry Coke

Refreshing Coke, now with cherry!

» 12PK 12 OZ

\$7.79

[Out of Stock](#)



Fresca

The unique lemon lime soda. Delicious!

» 2 LTR

\$2.29
CLUB BEV!
\$2.09

[Out of Stock](#)

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EXHIBIT 19



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HENRY WEINHARD'S

Word Mark	HENRY WEINHARD'S
Goods and Services	IC 032. US 045 046 048. G & S: BEER AND SOFT DRINKS. FIRST USE: 19760000. FIRST USE IN COMMERCE: 19770000
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75432678
Filing Date	February 11, 1998
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	July 6, 1999
Registration Number	2280777
Registration Date	September 28, 1999
Owner	(REGISTRANT) Stroh Brewery Company, The CORPORATION ARIZONA 100 River Place Detroit MICHIGAN 48207 (LAST LISTED OWNER) MILLERCOORS LLC LIMITED LIABILITY COMPANY DELAWARE 250 South Wacker Drive Suite 800 Chicago ILLINOIS 606065888
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Sarah M. H. Brindley
Prior Registrations	1095395;1423162
Type of Mark	TRADEMARK

Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090807.
Renewal 1ST RENEWAL 20090807
Other Data The likeness "Henry Weinhard" in the mark does not identify a living individual.
Live/Dead Indicator LIVE

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Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,280,777

United States Patent and Trademark Office

Registered Sep. 28, 1999

**TRADEMARK
PRINCIPAL REGISTER**

HENRY WEINHARD'S

STROH BREWERY COMPANY, THE (ARIZONA
CORPORATION)
100 RIVER PLACE
DETROIT, MI 48207

FOR: BEER AND SOFT DRINKS, IN CLASS
32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 0-0-1976; IN COMMERCE
0-0-1977.

OWNER OF U.S. REG. NOS. 1,095,395 AND
1,423,162.

THE LIKENESS "HENRY WEINHARD" IN
THE MARK DOES NOT IDENTIFY A LIVING
INDIVIDUAL.

SER. NO. 75-432,678, FILED 2-11-1998.

GEOFFREY FOSDICK, EXAMINING ATTOR-
NEY

MEC00060577

Combined Declaration of Use in Commerce & Application for Renewal of Registration of a Mark under Sections 8 & 9

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2280777
REGISTRATION DATE	09/28/1999
SERIAL NUMBER	75432678
MARK SECTION	
MARK	HENRY WEINHARD'S
OWNER SECTION (current)	
NAME	MILLERCOORS LLC
STREET	1209 ORANGE STREET
CITY	WILMINGTON
STATE	Delaware
ZIP/POSTAL CODE	19801
COUNTRY	US
ATTORNEY SECTION (new)	
NAME	Sarah M. H. Brindley
FIRM NAME	Quarles & Brady LLP
INTERNAL ADDRESS	Suite 2040
STREET	411 East Wisconsin Avenue
CITY	Milwaukee
STATE	Wisconsin
POSTAL CODE	53202
COUNTRY	United States

MEC00060578

PHONE	414-277-5000
FAX	414-271-3552
EMAIL	tm-dept@quarles.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
ATTORNEY DOCKET NUMBER	134421.90080
OTHER APPOINTED ATTORNEY	Robert L. Titley, Marta S. Levine, Carl R. Schwartz, and Hillary J. Wucherer
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	032
GOODS OR SERVICES	KEEP ALL LISTED
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT7\IMAGEOUT7\754\326\75432678\xml1\S890002.JPG
SPECIMEN DESCRIPTION	photograph of the goods
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	500
TOTAL FEE PAID	500
SIGNATURE SECTION	
ORIGINAL PDF FILE	hw_12145185163-105527034_.HENRY_WEINHARD_S_-_Signature_for_8_9.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT7\IMAGEOUT7\754\326\75432678\xml1\S890003.JPG
SIGNATORY'S NAME	Patti Z. Beacom
SIGNATORY'S POSITION	Assistant General Counsel - Marketing & IP
PAYMENT METHOD	DA

MEC00060579

FILING INFORMATION

SUBMIT DATE	Tue Aug 04 11:02:58 EDT 2009
TEAS STAMP	USPTO/S08N09-12.145.185.1 63-20090804110258908075-2 280777-44073dea17dbbd72df c229774e7292cc14d-DA-7657 -20090804105527034377

**Combined Declaration of Use in Commerce & Application for Renewal of
Registration of a Mark under Sections 8 & 9
To the Commissioner for Trademarks:**

REGISTRATION NUMBER: 2280777

REGISTRATION DATE: 09/28/1999

MARK: HENRY WEINHARD'S

The owner, MILLERCOORS LLC, having an address of
1209 ORANGE STREET
WILMINGTON, Delaware 19801
US

is filing a Combined Declaration of Use in Commerce & Application for Renewal of Registration of a Mark under Sections 8 & 9.

For International Class 032, the mark is in use in commerce on or in connection with **all** goods or services listed in the existing registration for this specific class; or, the owner is making the listed excusable nonuse claim.

The owner is submitting one specimen showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) photograph of the goods.

[Specimen File1](#)

The registrant hereby appoints Sarah M. H. Brindley and Robert L. Titley, Marta S. Levine, Carl R. Schwartz, and Hillary J. Wucherer of Quarles & Brady LLP
Suite 2040
411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
United States

to file this Combined Declaration of Use in Commerce & Application for Renewal of Registration of a Mark under Sections 8 & 9 on behalf of the registrant. The attorney docket/reference number is 134421.90080.

A fee payment in the amount of \$500 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Original PDF file:

[hw_12145185163-105527034_HENRY WEINHARD S - Signature for 8_9.pdf](#)

Converted PDF file(s) (1 page)

MEC00060581

[Signature File1](#)

Signatory's Name: Patti Z. Beacom

Signatory's Position: Assistant General Counsel - Marketing & IP

Mailing Address:

Quarles & Brady LLP

411 East Wisconsin Avenue

Milwaukee, Wisconsin 53202

Serial Number: 75432678

Internet Transmission Date: Tue Aug 04 11:02:58 EDT 2009

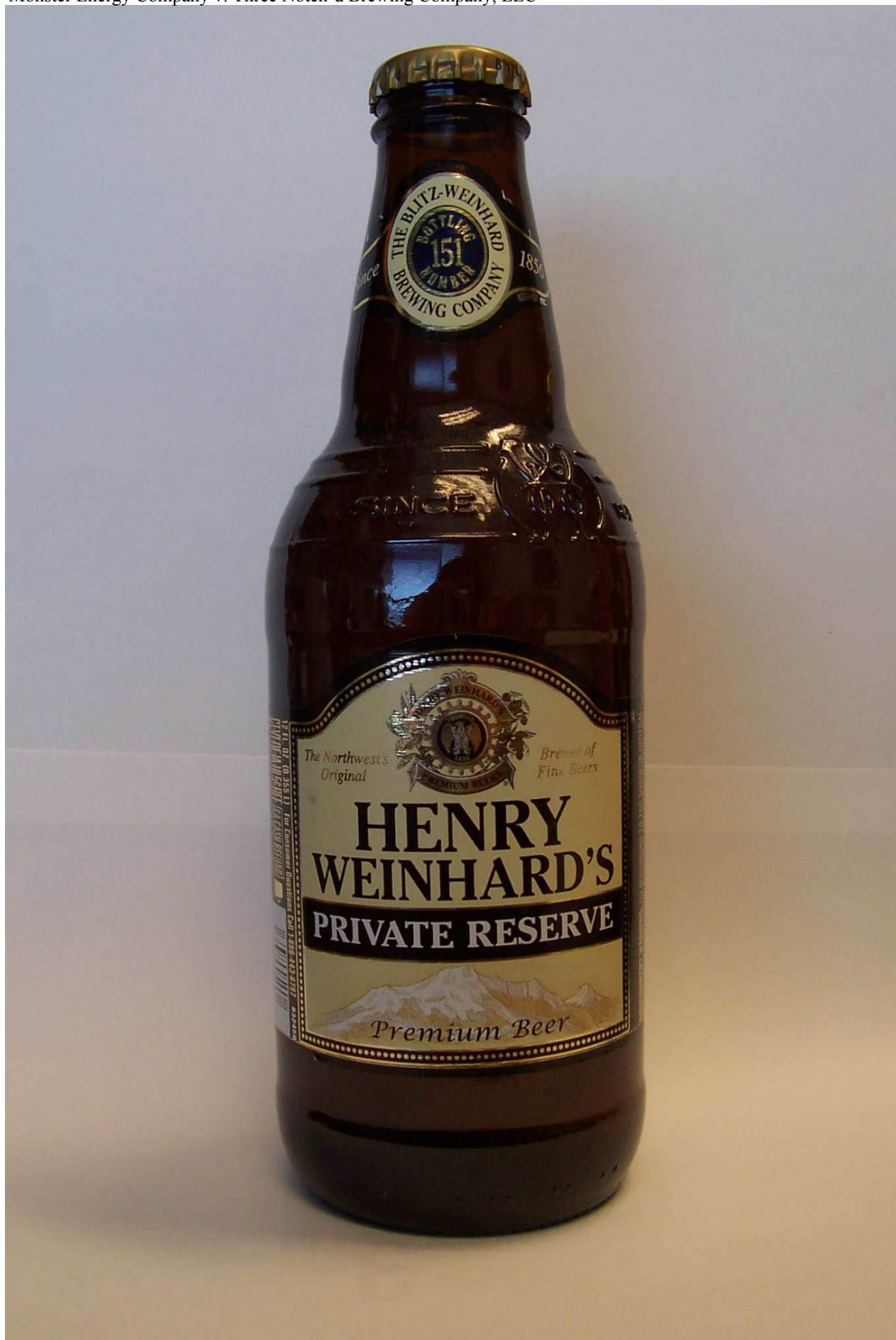
TEAS Stamp: USPTO/S08N09-12.145.185.163-200908041102

58908075-2280777-44073dea17dbbd72dfc2297

74e7292cc14d-DA-7657-2009080410552703437

7

MEC00060582



MEC00060583

Declaration

Section 8: Declaration of Use in Commerce


Unless the owner has specifically claimed excusable non-use, the mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature Section

Signature: 
Date: August 3, 2009
Signatory's Name: Patti Z. Beacom
Signatory's Position: Assistant General Counsel - Marketing & IP

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the boilerplate declaration language. Do **not** include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

QB\8000620.2

MEC00060584

ROUTING SHEET TO POST REGISTRATION (PRU)

Registration Number: 2280777



Serial Number: 75432678



RAM Sale Number: 7657

RAM Accounting Date: 20090804

Total Fees: \$500

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
\$8 affidavit	7205	20090804	\$100	1	1	\$100
Application for Renewal (\$9)	7201	20090804	\$400	1	1	\$400

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICS (AM-FLG-IN-TICS): True

Transaction Date: 20090804



MEC00060585

EXHIBIT 20

United States of America

United States Patent and Trademark Office

THE PARTY STARTS HERE

Reg. No. 4,577,168

BLUE MATRIX LABS (TEXAS LIMITED LIABILITY COMPANY)
PO BOX 342677
AUSTIN, TX 78734

Registered July 29, 2014

Int. Cl.: 32

FOR: BEERS; ENERGY DRINKS; NON-ALCOHOLIC DRINKS, NAMELY, ENERGY SHOTS,
IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

TRADEMARK

FIRST USE 12-1-2013; IN COMMERCE 12-1-2013.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-942,683, FILED 5-25-2013.

JANICE KIM, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

MEC00062560

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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Word Mark THE PARTY STARTS HERE

Goods and Services IC 032. US 045 046 048. G & S: Beers; Energy drinks; Non-alcoholic drinks, namely, energy shots. FIRST USE: 20131201. FIRST USE IN COMMERCE: 20131201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85942683

Filing Date May 25, 2013

Current Basis 1A

Original Filing Basis 1B

Published for Opposition October 8, 2013

Registration Number **4577168**

Registration Date July 29, 2014

Owner (REGISTRANT) BLUE MATRIX LABS LIMITED LIABILITY COMPANY TEXAS PO BOX 342677 AUSTIN TEXAS 78734
(LAST LISTED OWNER) PARADISE BEVERAGE, LLC LIMITED LIABILITY COMPANY TEXAS P.O. BOX 342677 AUSTIN TEXAS 78734

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Mark E. Scott

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 8

Serial # : [85942683](#)

Filing Dt: 05/25/2013

Reg # : [4577168](#)

Reg. Dt: 07/29/2014

Registrant: BLUE MATRIX LABS

Mark: THE PARTY STARTS HERE

Assignment: 1

Reel/ Frame: [5157/0855](#)

Recorded: 11/20/2013

Pages: 11

Conveyance: SECURITY INTEREST

Assignor: [BLUE MATRIX LABS, LLC](#)

Exec Dt: 09/26/2013

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: NONE

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee: [CHAPMAN, DAVE](#)

2905 CLIFF POINT
SPICEWOOD, TEXAS 78669

Correspondent: DAVE CHAPMAN

2905 CLIFF POINT
SPICEWOOD, TX 78669

Assignment: 2

Reel/ Frame: [5179/0888](#)

Recorded: 12/17/2013

Pages: 13

Conveyance: SECURITY INTEREST

Assignor: [BLUE MATRIX LABS, LLC](#)

Exec Dt: 12/05/2013

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: TEXAS

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee: [KENT, JEFFREY E., MR.](#)

12006 PLEASANT PANORAMA VIEW
AUSTIN, TEXAS 78738

Correspondent: KAREN BALLACK

WEIL, GOTSHAL & MANGES LLP
201 REDWOOD SHORES PARKWAY
REDWOOD SHORES, CA 94065

Assignment: 3

Reel/ Frame: [5198/0289](#)

Recorded: 01/22/2014

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [HARTER, KENDALL](#)

Exec Dt: 01/22/2014

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: TEXAS

Assignee: [BLUE MATRIX LABS](#)

PO BOX 342677
AUSTIN, TEXAS 78734

Correspondent: MITESH PATEL

1580 W EL CAMINO REAL, SUITE 13
MOUNTAIN VIEW, CA 94040

Assignment: 4

Reel/ Frame: [5418/0729](#)

Recorded: 12/12/2014

Pages: 15

Conveyance: SECURITY INTEREST

Assignor: [BLUE MATRIX LABS, LLC](#)

Exec Dt: 06/06/2014

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: TEXAS

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee: [KENT, JEFFREY F.](#)

12006 PLEASANT PANORAMA VIEW
AUSTIN, TEXAS 78738

Correspondent: MARISA GEIGER

201 REDWOOD SHORES PARKWAY
WEIL, GOTSHAL & MANGES LLP
REDWOOD SHORES, CA 94065

Assignment: 5

Reel/ Frame: [5328/0583](#)

Recorded: 07/23/2014

Pages: 8

Conveyance: SECURITY INTEREST

Assignor: [KENT, JEFFREY F.](#)

Exec Dt: 07/22/2014

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: LIMITED PARTNERSHIP

Citizenship: TEXAS

Assignee: [KENT BML INVESTMENTS, LP](#)

12006 PLEASANT PANORAMA VIEW
AUSTIN, TEXAS 78738

Correspondent: MARISA GEIGER

WEIL, GOTSHAL & MANGES LLP
201 REDWOOD SHORES PARKWAY
REDWOOD SHORES, CA 94065

Assignment: 6

Reel/ Frame: [5393/0355](#)

Recorded: 11/03/2014

Pages: 10

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE NATURE OF CONVEYANCE PREVIOUSLY RECORDED ON REEL
005328 FRAME 0583. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT OF SECURITY INTEREST.

Assignor: [KENT, JEFFREY F.](#)

Exec Dt: 07/22/2014

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: LIMITED PARTNERSHIP

Citizenship: TEXAS

Assignee: [KENT BML INVESTMENTS, LP](#)

12006 PLEASANT PANORAMA VIEW
AUSTIN, TEXAS 78738

Correspondent: MARISA GEIGER

201 REDWOOD SHORES PARKWAY
WEIL, GOTSHAL & MANGES LLP
REDWOOD SHORES, CA 94065

Assignment: 7

Reel/ Frame: [5476/0690](#)

Recorded: 03/12/2015

Pages: 8

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE NAME OF THE ASSIGNEE PREVIOUSLY RECORDED ON REEL
005198 FRAME 0289. ASSIGNOR(S) HEREBY CONFIRMS THE ASSIGNMENT TO BLUE MATRIX LABS, LLC.

Assignor: [HARTER, KENDALL](#)

Exec Dt: 02/04/2015

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Entity Type: LIMITED LIABILITY
COMPANY

Assignee: [BLUE MATRIX LABS, LLC](#)

P.O. BOX 342677

AUSTIN, TEXAS 78734

Citizenship: TEXAS

Correspondent: MARK E. SCOTT
P.O. BOX 3267
HOUSTON, TX 77253-3267

Assignment: 8

Reel/ Frame: [5629/0487](#)

Recorded: 09/24/2015

Pages: 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [BLUE MATRIX LABS, LLC](#)

Exec Dt: 09/23/2015

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: TEXAS

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: TEXAS

Assignee: [PARADISE BEVERAGE, LLC](#)

P.O. BOX 342677
AUSTIN, TEXAS 78734

Correspondent: MARK E. SCOTT
P.O. BOX 3267
HOUSTON, TX 77253-3267

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Web interface last modified: July 25, 2014 v.2.5

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EXHIBIT 21

United States of America
United States Patent and Trademark Office

WILDFIN

Reg. No. 4,522,471

Registered Apr. 29, 2014

Int. Cl.: 32

TRADEMARK

PRINCIPAL REGISTER

WILDFIN NORTHWEST LLC (WASHINGTON LIMITED LIABILITY COMPANY)
18617 320TH AVENUE NE
DUVALL, WA 98019

FOR: BEER; ALE; SODA POPS; SOFT DRINKS, NAMELY, SODA; NON-ALCOHOLIC BEVERAGES, NAMELY, CARBONATED BEVERAGES, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 3-6-2014; IN COMMERCE 3-6-2014.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-554,226, FILED 2-27-2012.

DAVID I, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

MEC00062555

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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WILDFIN

Word Mark	WILDFIN
Goods and Services	IC 032. US 045 046 048. G & S: beer; ale; soda pops; soft drinks, namely, soda; non-alcoholic beverages, namely, carbonated beverages. FIRST USE: 20140306. FIRST USE IN COMMERCE: 20140306
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85554226
Filing Date	February 27, 2012
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	July 17, 2012
Registration Number	4522471
Registration Date	April 29, 2014
Owner	(REGISTRANT) Wildfin Northwest LLC LIMITED LIABILITY COMPANY WASHINGTON 18617 320th Avenue NE Duvall WASHINGTON 98019
Attorney of Record	Cindy L. Caditz
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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For Serial Number: 85554226

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EXHIBIT 22

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 2,178,241

United States Patent and Trademark Office

Registered Aug. 4, 1998

**TRADEMARK
PRINCIPAL REGISTER**

ABITA

ABITA BREWING COMPANY, INC. (LOUISIANA CORPORATION)
P.O. BOX 762
ABITA SPRINGS, LA 70420

FIRST USE 7-4-1986; IN COMMERCE
8-23-1991.

OWNER OF U.S. REG. NO. 1,927,815.

FOR: BEER, ALE, LAGER, MALT LIQUOR,
CARBONATED SOFT DRINKS, IN CLASS 32
(U.S. CLS. 45, 46 AND 48).

SER. NO. 75-295,709, FILED 5-21-1997.

CAROL SPILS, EXAMINING ATTORNEY

MEC00062449



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Typed Drawing

Word Mark	ABITA
Goods and Services	IC 032. US 045 046 048. G & S: beer, ale, lager, malt liquor, carbonated soft drinks. FIRST USE: 19860704. FIRST USE IN COMMERCE: 19910823
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75295709
Filing Date	May 21, 1997
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	May 12, 1998
Registration Number	2178241
Registration Date	August 4, 1998
Owner	(REGISTRANT) Abita Brewing Company, Inc. CORPORATION LOUISIANA P.O. Box 762 Abita Springs LOUISIANA 70420 (LAST LISTED OWNER) ABITA BREWING COMPANY, LLC LIMITED LIABILITY COMPANY LOUISIANA PO BOX 1510 ABITA SPRINGS LOUISIANA 70420
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Raymond G. Areaux (#33,643)
Prior Registrations	1927815
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070924.
Renewal	1ST RENEWAL 20070924
Live/Dead Indicator	LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 2

Serial # : [75295709](#)

Filing Dt: 05/21/1997

Reg # : [2178241](#)

Reg. Dt: 08/04/1998

Registrant: Abita Brewing Company, Inc.

Mark: ABITA

Assignment: 1

Reel/ Frame: [1858/0215](#)

Recorded: 02/19/1999

Pages: 4

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: [ABITA BREWING COMPANY, INC.](#)

Exec Dt: 02/17/1999

Entity Type: CORPORATION

Citizenship: LOUISIANA

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: LOUISIANA

Assignee: [ABITA BREWING CO., L.L.C.](#)

21084 HWY. 36

COVINGTON, LOUISIANA 70443

Correspondent: CARVER. DARDEN, KORETZKY, TESSIER ET AL

RAYMOND G. AREAUX

1100 POYDRAS STREET

ENTERGY CENTRE, STE. 2700

NEW ORLEANS, LA 70163

Assignment: 2

Reel/ Frame: [5508/0626](#)

Recorded: 05/01/2015

Pages: 8

Conveyance: SECURITY INTEREST

Assignor: [ABITA BREWING CO., L.L.C.](#)

Exec Dt: 04/30/2015

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: LOUISIANA

Entity Type: LIMITED LIABILITY
COMPANY

Citizenship: DELAWARE

Assignee: [GOLUB CAPITAL LLC, AS ADMINISTRATIVE AGENT](#)

666 FIFTH AVENUE, 18TH FLOOR

NEW YORK, NEW YORK 10103

Correspondent: JACLYN DI GRANDE - PARALEGAL

GOLDBERG KOHN LTD.

55 E MONROE ST., SUITE 3300

CHICAGO, IL 60603

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EXHIBIT 23

United States of America

United States Patent and Trademark Office

APPALACHIAN BREWING CO.

Reg. No. 4,888,490

Registered Jan. 19, 2016

Int. Cls.: 32 and 43

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

APPALACHIAN BREWING CO., INC. (PENNSYLVANIA CORPORATION)
50 N. CAMERON ST.
HARRISBURG, PA 17101

FOR: BEER; SOFT DRINKS, NAMELY, SODAS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 4-0-1997; IN COMMERCE 4-0-1997.

FOR: RESTAURANT AND BREW PUB SERVICES, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 5-0-1997; IN COMMERCE 5-0-1997.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,320,812.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BREWING CO.", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 86-621,786, FILED 5-7-2015.

ESTHER A. BORSUK, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

MEC00062575

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.



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APPALACHIAN BREWING CO.

Word Mark	APPALACHIAN BREWING CO.
Goods and Services	IC 032. US 045 046 048. G & S: Beer; soft drinks, namely, sodas. FIRST USE: 19970400. FIRST USE IN COMMERCE: 19970400
	IC 043. US 100 101. G & S: Restaurant and brew pub services. FIRST USE: 19970500. FIRST USE IN COMMERCE: 19970500
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86621786
Filing Date	May 7, 2015
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	November 3, 2015
Registration Number	4888490
Registration Date	January 19, 2016
Owner	(REGISTRANT) Appalachian Brewing Co., Inc. CORPORATION PENNSYLVANIA 50 N. Cameron St. Harrisburg PENNSYLVANIA 17101
Attorney of Record	Brian P. Gregg
Prior Registrations	2320812
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BREWING CO." APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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For Serial Number: 86621786

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Word Mark	M MONSTER ENERGY
Goods and Services	IC 043. US 100 101. G & S: Restaurant services; bar services
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.17.03 - Claws; Feet, bird; Parts of birds: claws, talons, feet, foot tracks; Talons; Tracks, bird 27.03.05 - Objects forming letters or numerals
Serial Number	86131120
Filing Date	November 27, 2013
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	February 18, 2014
Owner	(APPLICANT) Monster Energy Company CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879
Attorney of Record	Diane M. Reed
Prior Registrations	3134841
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the letter "M" in the form of a claw above the words "MONSTER ENERGY".
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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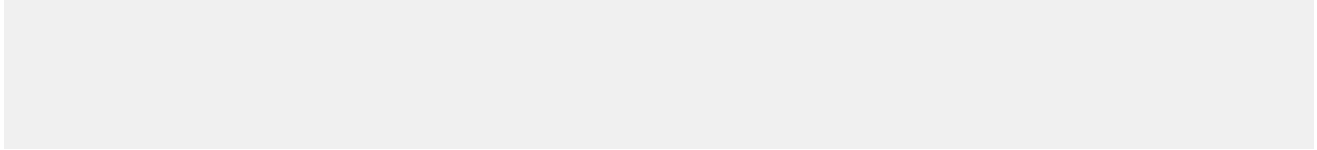


EXHIBIT 25

7/16/2015

Red Bull files trademark complaint against Old Ox Brewery | Page 6 | Community | BeerAdvocate



lillitnn92
Advocate (605)
Virginia
Aug 22, 2009

Verified

Subscriber

try to stake claim in things that are of historic value?!?!? Three Notch'd Road was around way before Monster.

http://en.wikipedia.org/wiki/Three_Notch'd_Road

lillitnn92, May 26, 2015

#237



lillitnn92
Advocate (605)
Virginia
Aug 22, 2009

Verified

Subscriber

Wow, so answering my own question here. Seems it's been out for awhile, I just haven't heard about it.

"Monster Beverage Corp. has attacked Three Notch'd Brewing in Charlottesville for the three sideways slashes on the microbrewery's logo that look similar to the vertical slashes that Monster uses."

http://www.richmond.com/business/local/article_31fce8a4-aa9b-5212-af7b-25e78503e423.html

lillitnn92, May 26, 2015

#238



benzalman
Advocate (560)
Massachusetts
Apr 25, 2009

Verified

lillitnn92 said: ↑

Wow, so answering my own question here. Seems it's been out for awhile, I just haven't heard about it.

"Monster Beverage Corp. has attacked Three Notch'd Brewing in Charlottesville for the three sideways slashes on the microbrewery's logo that look similar to the vertical slashes that Monster uses."

http://www.richmond.com/business/local/article_31fce8a4-aa9b-5212-af7b-25e78503e423.html

Love these full contact descriptions "Attacked!"

Anyway, looks like Monster did in fact oppose Three Notch'd's attempt to trademark the three slash sideways logo, which is roughly the same as the monster logo flipped on its side. More similarities than differences to my eyes anyway.

<http://www.beeradvocate.com/community/threads/red-bull-files-trademark-complaint-against-old-ox-brewery.256733/page-6>

16/17

MEC00061649

7/16/2015

Red Bull files trademark complaint against Old Ox Brewery | Page 6 | Community | BeerAdvocate

Where I'm a bit lost is your comment about someone claiming a mark in something of historic value. We're the sideways slashes a symbol of the road of itself? To further clarify, this opposition is not about the name "Three Notch'd," only about this logo.

benzalman, May 26, 2015

#239

lilitnn92 likes this.



drthh
Poobah (1,050)
Pennsylvania
Nov 25, 2007

benzalman said: ↑

Love these full contact descriptions "Attacked!"

Anyway, looks like Monster did in fact oppose Three Notch'd's attempt to trademark the three slash sideways logo, which is roughly the same as the monster logo flipped on its side. More similarities than differences to my eyes anyway.

Where I'm a bit lost is your comment about someone claiming a mark in something of historic value. We're the sideways slashes a symbol of the road of itself? To further clarify, this opposition is not about the name "Three Notch'd," only about this logo.

The three notches were blazes in trees marking a colonial era "trail" and some roads in the Charlottesville now follow much of the same path.

http://en.wikipedia.org/wiki/Three_Notch'd_Road

Last edited: May 26, 2015

drthh, May 26, 2015

#240

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MEC00061650

7/16/2015




Red Bull files trademark complaint against Old Ox Brewery | Page 7 | Community | BeerAdvocate

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Red Bull files trademark complaint against Old Ox Brewery

Discussion in 'Beer News' started by RblWthACoz, Feb 9, 2015.

 138  91 

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lillitnn92
Advocate (605)
Virginia
Aug 22, 2009
Verified
Subscriber

"**Three Notch'd Road** (also called **Three Chopt Road**) was a [colonial-era](#) major east-west route across central [Virginia](#). It is believed to have taken its name from a distinctive marking of three notches cut into trees to blaze the trail"

Yes. This is something that is apart of VA history. When breweries name beers or their brewery after something of local tradition or history, and then these guys come in thinking they "own" something, it's repulsive. Those three notches were around waaay before Monster Energy existed.

lillitnn92, May 26, 2015 #241



MNAle
Savant (485)
Minnesota
Sep 6, 2011
Verified

Sigh...

Monster has a registered trademark on the monster-claw slash logo. I seriously doubt they care one way or the other about "Three Notch'd Road." But, regardless, in fact, they do own the 3-slash graphic as a registered trademark.


I also seriously doubt the three slash logo adopted by the brewery can be traced in any way to anything historical as a graphical image.

If the brewery attempted to register the mark, it was the brewery that initially tried to "own" this mark as it applies to the historical "Three Notch'd Road", not Monster. But, in your view, I guess they are allowed because they're local boys.

To my eye, the brewery logo looks very much like the already registered monster-claw mark, only rotated 90 degrees. If the graphic is at the center of this, then I happen to agree with Monster on this one.

MNAle, May 26, 2015 #242

benzalman likes this.



benzalman
Advocate (560)
Massachusetts
Apr 25, 2009
Verified

lillitnn92 said: ↑

"**Three Notch'd Road** (also called **Three Chopt Road**) was a [colonial-era](#) major east-west route across central [Virginia](#). It is believed to have taken its name from a distinctive marking of three notches cut into trees to blaze the trail"

Yes. This is something that is apart of VA history. When breweries name beers or their brewery after something of local tradition or history, and then these guys come in thinking they "own" something, it's repulsive. Those three notches were around waaay before Monster Energy existed.

Right. Even so, it's not Monster that is trying to register the historical mark. It's Three Notch'd. Monster is simply saying that the mark that Three Notch'd is trying to register (the one you say is historical), is confusingly similar with the Monster mark.

I'm just confused as to which is the repulsive bit - a small VA brewery trying to take the historic logo and own it, or Monster saying that the historic mark is confusingly similar with theirs?

If any of you would like to read the opposition, it can be found here:
<http://ttabvue.uspto.gov/ttabvue/ttabvue-91217273-OPP-1.pdf>

benzalman, May 26, 2015 #243

drthh likes this.

<http://www.beeradvocate.com/community/threads/red-bull-files-trademark-complaint-against-old-ox-brewery.256733/page-7>

1/2

MEC00061651

Exhibit 25 Page 3 of 3

Decl. of Jason A. Champion in Support of
Opposer's Motion for Summary Judgment

EXHIBIT 26

TRADE SECRET/
COMMERCIALY SENSITIVE

FILED UNDER SEAL